



Planning Statement of Case (Appendices)

Appeal under s.78 of The Town and Country
Planning, 1990.

**LITTLE ORCHARD, LOWER KINGSDOWN ROAD,
KINGSDOWN, CORSHAM, WILTSHIRE, SN13 8BD**

On behalf of
Mr and Mrs P de Witte

SPL0000
Appeal Statement
1.0
30 July 2026

LIST OF APPENDICES:

- APPENDIX 1 - REFUSAL NOTICE
- APPENDIX 2 – PROPOSED ALTERNATIVE – OPTION 1
- APPENDIX 3 - PROPOSED ALTERNATIVE – OPTION 2
- APPENDIX 4 – EXTERNAL PROPERTY PHOTOGRAPHS
- APPENDIX 5 - INTERNAL PROPERTY PHOTOGRAPHS
- APPENDIX 6 – OVERLAY PLAN SHOWING CHANGES
- APPENDIX 7 – PRE-APPLICATION ADVICE AND LOCAL AUTHORITY RESPONSE
- APPENDIX 8 – PLANNING STATEMENT
- APPENDIX 9 – EMAIL EXCHANGES DURING CONSIDERATION OF APPEAL APPLICATION
- APPENDIX 10 – ENGINEERING STATEMENT
- APPENDIX 11 – GEOTECHNICAL REPORT
- APPENDIX 12 – EMAIL EXCHANGE BETWEEN APPELLANT AND AUTHORITY REGARDING BASEMENT
- APPENDIX 13 – CONFIDENTIAL GP LETTER
- APPENDIX 14 – PLANNING OFFICER REPORT



The Town and Country Planning Act 1990
Refusal of Full Planning Permission
Application Reference Number: PL/2025/09915
Decision Date: 02/07/2026

Applicant:	Mr & Mrs Pim & Sheree De Witte Little Orchard Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD
Particulars of Development:	Retrospective full application for erection of one dwelling (not built in accordance with consent ref: 18/10970/FUL) (resubmission of PL/2024/02925)
At:	Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

In accordance with paragraph 39 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

In pursuance of their powers under the above Act, the Council hereby **REFUSE TO GRANT PERMISSION** for the development referred to in the above application and plans submitted by you, for the following reason(s):

Refusal Reason

- 1** The proposed development, by reason of its location would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011

Refusal Reason

- 2** The proposed new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with any of the exceptions within paragraph 154 to the National Planning Policy Framework. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152, 153, and 154 of the National Planning Policy Framework.

Nic Thomas - Director of Planning, Economy and Climate

NOTES

1. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to refuse permission, they may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - [Appeal a planning decision: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/appeal-a-planning-decision/overview)).

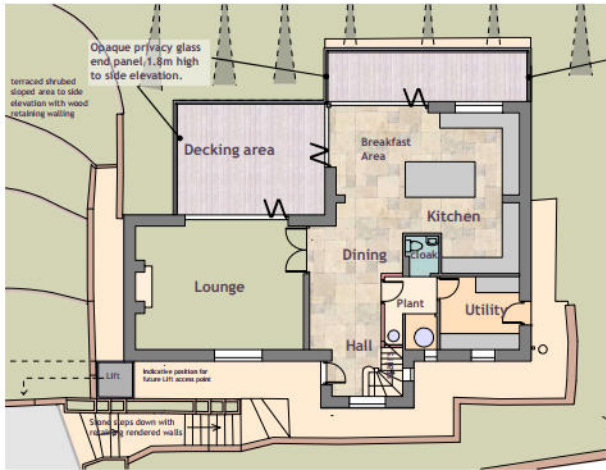
PROPOSED ALTERATIONS TO APPROVED HOUSE: CONCEPT 1 LITTLE ORCHARD, KINGSDOWN, BOX, WILTS.



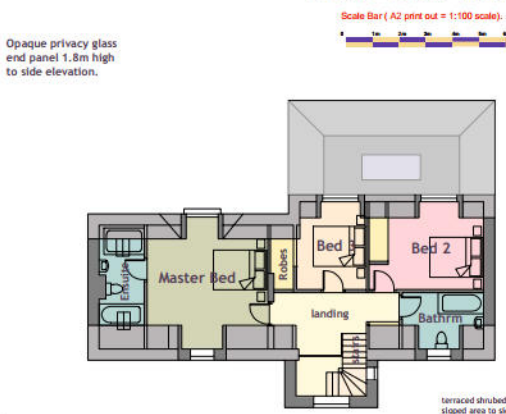
South East Elevation 1:100

North East Elevation 1:100

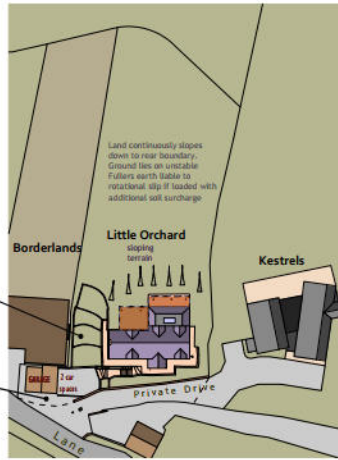
North West Elevation 1:100



Ground Floor Plan 1:100



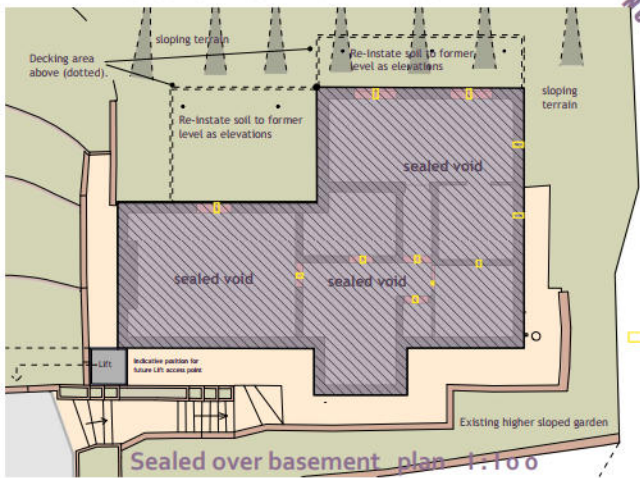
First Floor Plan 1:100



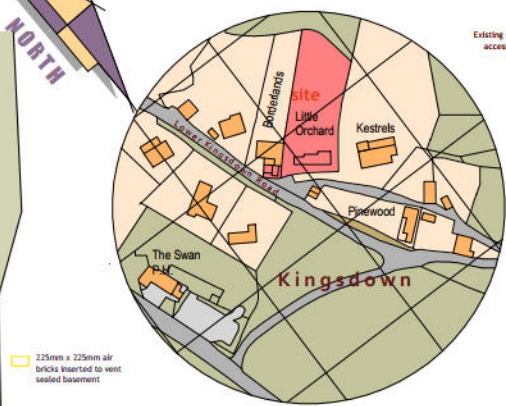
Block Plan 1:500



South West Elevation 1:100



Sealed over basement plan 1:100



Location Plan 1:1250



Former bungalow demolished to make way for new build (side elevation).



Computer generated image of proposal

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DRAWING No:- 1045 / CAM/2026 / 1
DATE:- JULY 2026 REV: H
SCALES:- ELEV'S FLOOR PLANS 1:100

PROJECT: ALTERATIONS TO NEW DWELLING, LITTLE ORCHARD, KINGSDOWN, BOX, WILTS FOR MR P. DE WITTE.

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restore ground to original slope
concealing basement area

Scale Bar (A2 print out = 1:100 scale):



Existing parking/
access point



1	2m	10m	15m	20m	25
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Sealed over basement plan 1:100



Scale Bar (A2 print out = 1 : 1 2 5 0 scale)



Computer generated image of proposal

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DRAWING No: 1045 / CMN/2026 / 1
DATE: JULY 2026 **REV:** H
SCALES: - ELEV'S FLOOR PLANS 1:100

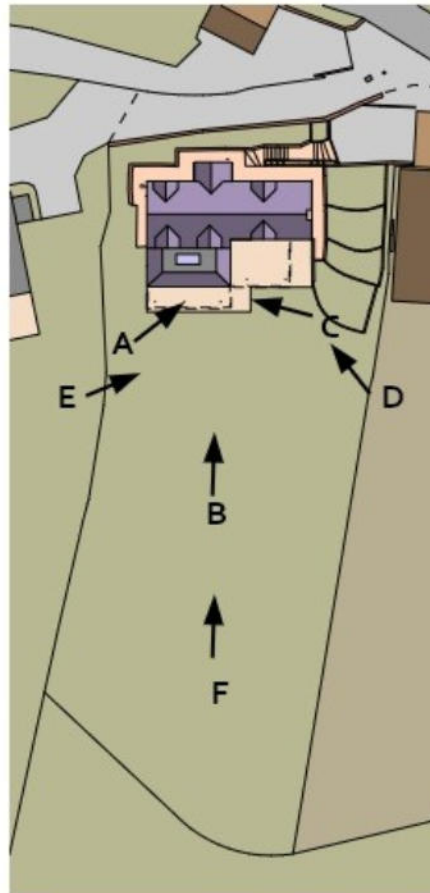
PROJECT: ALTERATIONS TO NEWELL, LITTLE ORCHARD, KINGSWOOD, BOK, WILTS FOR MR P. DE HETTE.

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AS BUILT CONSTRUCTION: LITTLE ORCHARD, KINGSDOWN, BOX, WILTS.



View on A: Left hand side of property



Block Plan 1:500

Scale Bar (A3 print out = 1:500 scale).



View on D: Right hand side of property



View on B: Rear elevation of property



View on E: As viewed from left boundary to right of property



View on C: Left hand side of property with new rebuilt property to left plot as viewed from right



View on F: rear view of property

AS BUILT CONSTRUCTION: LITTLE ORCHARD, KINGSDOWN, BOX, WILTS.



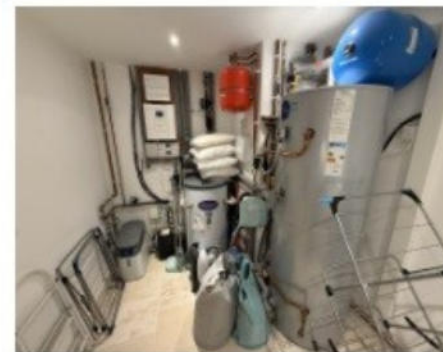
View A: Lift shaft in basement hall



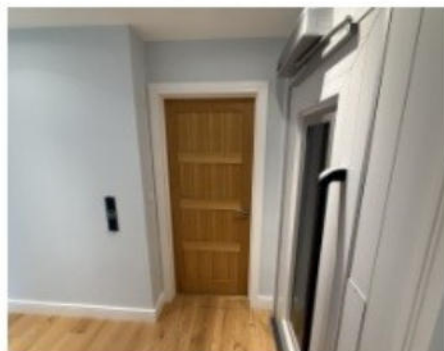
View B: Lift shaft and basement hallway area



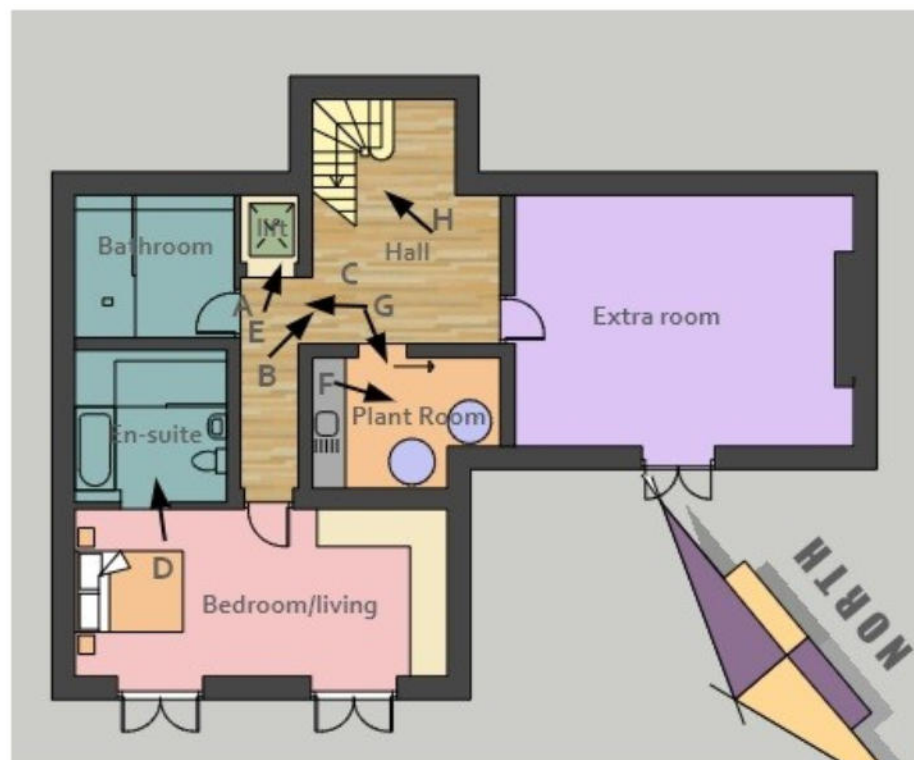
View E: Lift door opened at basement level



View F: Existing Plant room/utility at basement level



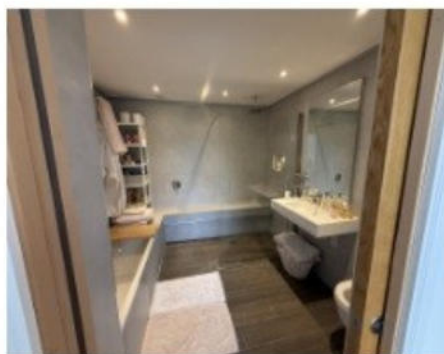
View C: door to bathroom with lift on right of picture



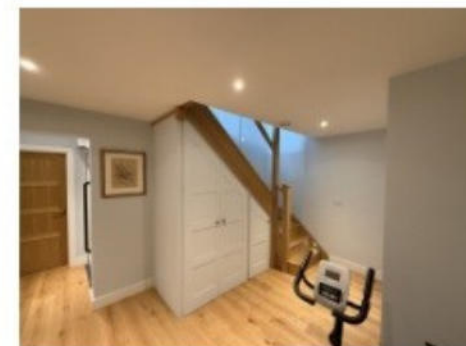
Basement Layout Plan 1:100
Scale Bar (A3 print out = 1:100 scale).



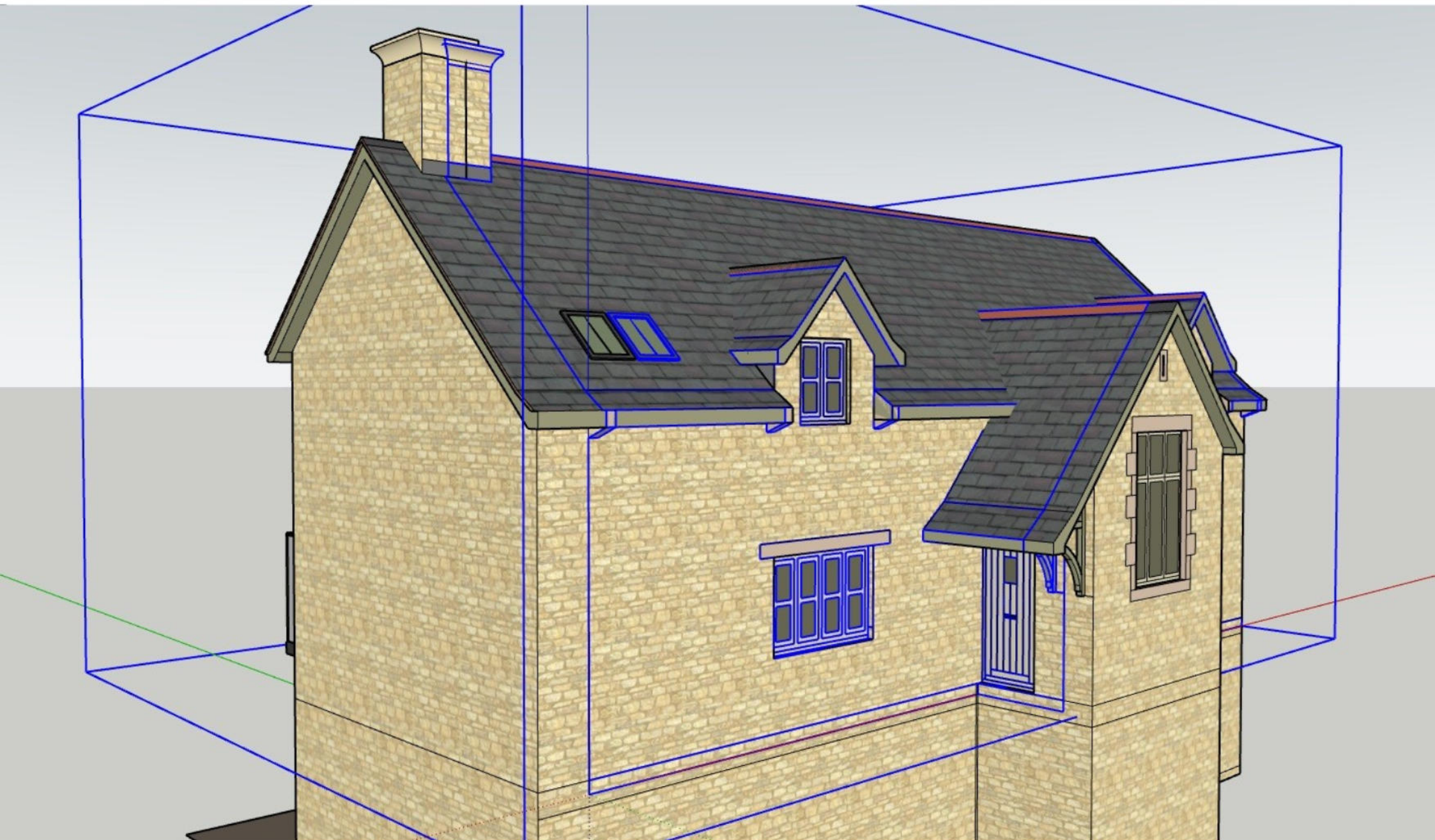
View G: Existing Plant room/utility from lower hall



View D: Purpose built en-suite to suit applicants daughter's requirements.



View on H: Staircase access in basement to ground floor





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30 April 2025

Dear Sir/Madam,

Application No:	ENQ/2025/00341
Proposal	Retrospective Full Planning for the Erection of One Dwelling.
Site Address	LITTLE ORCHARD, LOWER KINGSDOWN ROAD, KINGSDOWN, CORSHAM, SN13 8BD
On Behalf of:	N/A

Thank you for your pre-application validated on 27/02/2025. In response to your enquiry I hope that you will find the following information helpful.

Please note that this advice represents officers' informal opinion based upon the information you have provided. It is given without prejudice to any decision the Council may make on any subsequent formal planning application. In particular, a planning application will be the subject of publicity and consultation in accordance with the Council's procedures which may bring to light additional issues, and as you will be aware, advice offered is based on the planning policies that apply at the time of writing.

SITE AND PROPOSAL

The pre-application is for a retrospective new dwelling at Little Orchard, Lower Kingsdown Road, Kingsdown. This unauthorised dwelling replaced a previous dwelling at the application site. Within previous years, a number of different designs for extensions to the former dwelling, and a replacement dwelling were granted consent. An application last year (ref: PL/2024/02925) considered a new dwelling, which was a similar design at ground and first floor level to the most recent permission for a replacement dwelling (ref: 18/10970/FUL). However, the unauthorised dwelling was erected with an additional basement level, associated ground works, re-positioning of the dwelling and other minor alterations. It is understood that the unauthorised dwelling was practically completed and occupied from 13 April 2022. The last application for this was refused in August 2024.

The pre-application seeks whether the provision of additional information, some modifications and changing policy context would mean the revised proposal could be supported.

CONSULTATION

Council's Highways Engineer: "Provided 3 parking spaces are retained as per minimum parking standards I would not recommend a highways objection."

Council's Drainage Engineer: **"Pre-Application Advice: Flood Risk"**

The Wiltshire Council Strategic Flood Risk Assessment, SFRA Data Explorer, has indicated that the site is located within Flood Zone 1, and is likely to not be at risk from pluvial flooding, groundwater flooding, or flooding from artificial sources.

Overall, the site is shown to be at moderate cumulative risk of flooding in the future from all sources.

Pre-Application Advice: Drainage Strategy / Drainage Design

We note this application is retrospective in nature, and the works have been complete. Approval was granted in February 2019, as part of application 18/10970/FUL. The applicant should note that all amendments, or additions, to the drainage features on site must comply with building regulations, part H.

We note the drainage team previously commented on PL/2023/07905 stating “we would have no objections to the change in elevations, we would request that further detail is provided on how basement excavation arisings have been deposited on the site (as per Sally & Calum Land's comment), including position, height change, and long-section through the site so as it can be confirmed that this does not impact overland flow paths and increase flood risk to adjacent land”.

The applicant should note this point remains to demonstrate flood risk is not increased elsewhere. The applicant should provide the necessary details in response at the next stage.

Based on DEFRA Magic Maps the site has been shown to in a Source Protection Zone.

The applicant should note that in all instances the preference should be to utilise blue-green SuDS which provide multi-faceted benefits to the site (in terms of water quantity, quality, amenity and biodiversity); for example, for attenuation features preference should be given to use of swales / ponds / detention basins (if technically feasible) instead of attenuation tanks. The applicant should adopt a holistic approach to planning the site, and sufficient space for SuDS features should be provided at an early stage in order to fulfil the requirements of NPPF; the LLFA will not accept statements that there is insufficient space for SuDS or that SuDS have not been utilised due to cost.

Any proposals should be designed in accordance with the Non-statutory Technical Standards for Sustainable Drainage Systems and the latest SuDS Manual (C753).

The applicant should note the EA's updated climate change guidance (dated 27 May 2022) when preparing the Flood Risk Assessment / Drainage Strategy.

Informatives:

The applicant is reminded of their riparian responsibilities for maintaining flows within ordinary watercourses. Guidance on riparian ownership can be found here [Owning a watercourse - GOV.UK \(www.gov.uk\)](https://www.gov.uk/owning-a-watercourse)

The table below stipulates the information typically required at each application stage. Provision of the correct information will expedite the processing of applications by the drainage team.

Pre-app	Outline	Full	Reserved matters	Discharge of conditions	Document to be submitted
✓	✓	✓			Flood Risk Assessment / Statement
✓	✓	✓			Drainage Strategy / Statement & sketch layout plan
	✓				Preliminary layout drawings
	✓				Preliminary "Outline" hydraulic calculations
	✓				Preliminary landscape proposals
	✓				Ground investigation report (for infiltration)
	✓	✓			Evidence of third party agreement for discharge to their system (in principle/ consent to discharge)
		✓		✓	Maintenance program and on-going maintenance responsibilities
		✓	✓		Detailed development layout
		✓	✓	✓	Detailed flood & drainage design drawings
		✓	✓	✓	Full Structural, hydraulic & ground investigations
		✓	✓	✓	Geotechnical factual and interpretive reports, including infiltration results
		✓	✓	✓	Evidence of measures to prevent pollution of the receiving groundwater and/or surface waters
		✓	✓	✓	Drawings showing conveyance routes for flows exceeding the 1 in 100 year plus climate change
		✓	✓	✓	Detailed landscaping details
		✓	✓	✓	Discharge agreements (temporary and permanent)
		✓	✓	✓	Development Management & Construction Phasing Plan

”

PLANNING HISTORY

- PL/2024/02925 - Retrospective planning application for the retention of dwelling (built not in accordance with the approved plans on 18/10970/FUL) - Refused
- PL/2023/07905 - Variation of condition 2 of 18/10970/FUL - To allow for amendments to the approved floor plans and elevations – Withdrawn as found invalid following enforcement investigation
- 18/10970/FUL - Demolish and replace existing dwelling – Approved with Conditions
- 18/02372/FUL - Remove side, rear extensions including front store and replace with new extensions, remove main house roof and rebuild with new design. – Approved with Conditions
- 16/05386/FUL - Two Storey Rear Extension – Approved with Conditions
- N/04/00550/FUL - ERECTION OF FRONT DORMER WINDOW AND SINGLE STOREY REAR EXTENSION (REVISED) – Approved with Conditions
- N/03/01329/FUL - REAR EXTENSION WITH ROOMS IN THE ROOF AND THE ADDITION OF 2 DORMERS TO EXISTING DWELLING

POLICIES

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Wiltshire Core Strategy 2015 (WCS):

CP1 Settlement Strategy
CP2 Delivery Strategy
CP11 Corsham Spatial Strategy
CP50 Biodiversity and Geodiversity
CP51 Landscape
CP57 Ensuring High Quality Design and Place Shaping
CP61 Transport and New Development
CP64 Demand Management

North Wiltshire Local Plan 2011

Saved Policy H4

National Planning Policy Framework 2024 (NPPF)

ISSUES

The principal considerations in the determination of this application are the principle of development; green belt considerations; design and the impact of the proposed development on the character and appearance of the surrounding area (national landscape); the impact of the development on the residential amenities of neighbouring properties, ecology, access/parking and land stability.

ASSESSMENT

A full assessment of a similar proposal was provided within the Officer Report under PL/2024/02925. This pre-application assessment will focus on the changes and differences since the time of this application and the revised proposals.

Very Special Circumstances

At the time of the previous application there was only limited information provided with respect of a medical condition, and the basement floor plan showed uses such as a cinema room which had no link to a medical condition. The pre-application has provided medical records which state that Gabrielle requires a life-long carer and that her parents are currently acting as carers. Very special circumstances can be granted for additional accommodation for medical needs. At the time of the previous application it was not considered that this had been demonstrated with not enough information in relation to the medical conditions, and the rooms were not all related to this need i.e. the cinema room.

The revised plan now shows a storage area instead of the cinema room. Is there any medical related storage required for this room e.g. wheel chairs, etc? It would be helpful to provide this information when making a case for very special circumstances.

On the basis of the information provided within the pre-application, a stronger case could be made for very special circumstances on the basis that it can be demonstrated that the proposed rooms in the basement relate to this medical need.

Re-instating Soil

Re-instating some of the soil to help conceal part of the additional level is a positive proposal. This would reduce the impact when considering openness.

Five year land supply

There is a greater need for housing land supply since the previous application. Albeit, this would not outweigh any green belt issues, but if the green belt very special circumstances case could be made, this change would help justification in terms of principle.

Grey Belt

It is recognised that the NPPF has been updated since the previous decision and grey belt has been introduced to allow for more flexibility for development within the green belt in limited circumstances. Grey belt is defined as land in the green belt comprising previously development land and that does not contribute to the purposes (a), (b) or (d) in paragraph 143. Grey belt excludes land where the application of policies relating to areas or assets in footnote 7 would provide a strong reason for refusal or restricting development. On this basis, it is considered that part of the site could be considered as grey belt.

Paragraph 155 of the NPPF states that the development of homes should not be regarded as inappropriate where a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; b) there is a demonstrable unmet need for the type of development proposed; c) the development would be in a sustainable location; and d) where applicable the development proposed meets the golden rules of paras 156-157.

It is considered that the proposal would meet a) given the proposal replaces a previous dwelling, within an established building line of dwellings. There is a lack of five year land supply at present, which means that b) would be complied with. However, it is not considered that the application site is within a sustainable location given its rural location, and consequently this would not comply with c). In considering the golden rules, these are not applicable as they relate to major applications.

As the proposal would not meet all relevant criteria of paragraph 155, the proposed development does not accord with this policy and remains inappropriate.

Terrace

The planning application should demonstrate the levels of the previous terrace/amenity areas outside of the house to compare this to the level of the current proposed terrace. A privacy glass is recommended. It is recommended that the neighbour comments on the previous applications are reviewed ahead of any application and if any comments on privacy can be accommodated this may help during the application process.

CONCLUSION

In terms of moving forward, if a more compelling case can be made for very special circumstances and the proposed space within the basement can be clearly linked to this need, then there is a good chance that this proposal, together with the introduction of the soil to help conceal and reduce the visual impact of the proposal, could be supported at application stage.

Yours faithfully

Andrew Guest

Head of Development Management

Officer's Name: Rose Fox
Officer's Title: Planning Officer
Email: rose.fox@wiltshire.gov.uk

PRE-APP PLANNING STATEMENT

**SEEKING ADVICE RELATING TO OBTAINING
RETROSPECTIVE FULL APPLICATION FOR
ERECTION OF ONE DWELLING**

AT

**LITTLE ORCHARD, LOWER KINGSDOWN ROAD,
KINGSDOWN, CORSHAM, WILTSHIRE, SN13 8BD**

**SUTHERLAND PROPERTY
& LEGAL SERVICES LTD**



PLANNING & ARCHITECTURAL CONSULTANCY SERVICE

Executive Summary

This executive summary is provided to highlight the key facts of the pre-application enquiry.

- The site benefits from an established planning history of residential use and has in the past benefited from planning permission for replacement of the original dwelling on site;
- This pre-application enquiry seeks to engage positively with the Local Planning Authority (LPA) in order to regularise the existing, 'as built' dwelling;
- The site is 'previously developed land';
- The site is considered to be 'Grey Belt';
- Notwithstanding the fact the site is considered to be 'Grey Belt', the proposals provide living accommodation for the Applicants' disabled daughter which must be considered as a very special circumstance;
- The proposals are therefore not 'inappropriate development';
- The proposals do not conflict with the fundamental aim of the Green Belt, nor undermine any of the five purposes it serves;
- No significant adverse impacts arise from the proposals in respect of the amenity of neighbours or the character and appearance of the area;
- The LPA cannot demonstrate a five year housing land supply and as such the tilted balance must be applied to the assessment of the proposals in the absence of significant adverse impacts;
- Notwithstanding the fact the proposals comply with the relevant local and national planning policies there are significant material planning considerations which weigh in favour of approval.

1. INTRODUCTION

This Pre-application Planning Statement is submitted on behalf of Mr and Mrs de Witte ("the Applicants") in respect of Little Orchard, Lower Kingsdown Road, Box, Wiltshire SN13 8BD (the "application site").

The pre-application enquiry is made so as to continue to work positively with the Local Planning Authority (LPA) to ensure that the development can be found to be in accordance with the relevant adopted Development Plan policies and other relevant material planning considerations.

The pre-application enquiry also follows positive and proactive engagement with the Enforcement Officer, Daniel Tyrell, to the extent that an in person meeting was held at the LPA offices on 9th September 2024. Email and telephone communication continues as we work towards an agreeable position on the development.

Full planning permission was previously granted in February 2019 for the demolition and replacement of an existing dwelling (planning reference 18/10970/FUL). The Applicants understood that this planning permission was implemented with the demolition of the existing dwelling and the erection of the new dwelling that now occupies the application site.

It is acknowledged by the Applicants that the new dwelling does not accord with the approved plans referenced under condition 2 of the approved planning consent.

There are two pertinent reasons why the additional basement level was added to the new dwelling.

- 1) Firstly, during the groundwork and foundations phase of the build a structural issue was identified relating to the fact that the land, which is located on a steep bank, is made up of Fuller's earth. The advice received at the time from a structural engineer was to provide a basement as a part of the foundations of the build.
- 2) In 2018 the Applicants' daughter, who was 18 years old at the time, became ill. By 2020, while the build was still underway, the Applicants' daughter's condition deteriorated such that she was rendered wheelchair bound. Therefore a disabled lift was provided from the ground floor to the basement and disabled facilities were provided within the basement level including a bedroom and bathroom for the daughter. It was not practicable to provide such a lift to the first floor of the dwelling for technical reasons to do with the layout of the build.

Notwithstanding this, the application seeks retrospective planning permission to regularise the planning consent for the new dwelling in accordance with what has been built - subject to proposed amendments as set out in the proposed plans (LITTLE ORCHARD REVISED HOUSE Jan 2025).

The proposed amendments to the 'as built' scheme ensures that the basement level is screened through re-instating soils to their former level so as the development reads as a partially exposed basement level. It is important that the retained area of habitable floorspace benefits from means of escape in the event of a fire onto the garden area. The justification for this approach is to retain the living space for the Applicants' daughter who requires specialised accommodation to meet her medical needs whilst significantly reducing the volume and appearance of built form. The Applicants are satisfied that this is an appropriate and proportionate compromise to satisfy all parties.

Note that whilst the basement storey has been built the additional raised deck has not yet been practically constructed.

With regards to the addition of a raised deck, whilst it is acknowledged that this was not included in the planning consent, there was previously a large area of decking connecting the house at the side and back down to the garden. Therefore, the addition of the raised deck is not considered to be a substantive change from the former dwelling on the site.

Nevertheless, given that this statement forms the basis of a pre-application, prior to the submission of a new full planning application to regularise the planning consent to include for the partial basement and raised deck, the addition of the raised deck must be considered against planning policy on its own merits. This is therefore considered in the substantive assessment section of this report.

The Applicants did not intentionally construct a different dwelling to that which planning permission had been granted for. When the decision was made to add the basement storey the Applicants agent emailed the LPA to ask whether the erection of a basement would be an issue and received a written reply of response that the Applicants and their agent felt that they could rely on in erecting the basement.

Furthermore, the new dwelling has been constructed in full accordance with building regulations and has been inspected by the local authority building inspector at various stages throughout the course of the build and on completion and benefits from building inspector approval that the new dwelling complies with Building Regulations.

2. Relevant Planning History

Attempts to Regularise Works

The pertinent planning application history is listed below.

PL/2023/07905

Application	Type:	Section	73
Description:	Variation of condition 2 of 18/10970/FUL - To allow for amendments to the approved floor plans and elevations		
Address:	Little Orchard, Lower Kingsdown Road, Box, Wiltshire		
Status:	Application		Withdrawn
Decision:			NA
Decision Date:	NA		

The above application was submitted to regularise the planning permission to amend the approved plans to incorporate the additional basement storey. However, discussion with the LPA the Applicants agreed to withdraw the Section 73 application and deal with the matter by way of a retrospective planning application.

PL/2024/02925 - Retrospective planning application for the retention of dwelling (built not in accordance with the approved plans on 18/10970/FUL)

The application was refused on the following grounds:

The proposed development, by reason of its location, would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011.

The proposed (retrospective) new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with the replacement building criteria of paragraph 154 d) of the National Planning Policy Framework. The proposed (retrospective) new building is materially larger than the one it has replaced, and is therefore, by definition inappropriate development which conflicts with the purpose of the Green Belt. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152 & 154 of the National Planning Policy Framework (Dec 2023).

The proposed raised terrace/decking area causes an adverse impact to the amenity of adjoining neighbours in terms of privacy due to the overlooking and sense of overlooking from the terrace/decking area. There is a lack of screening to protect the privacy of neighbours. The proposal is contrary to Core Policy 57 vii of the Wiltshire Core Strategy

(Jan 2015).

Accordingly, the above grounds for refusal form the basis of the '**Main Issues**' that will be addressed through this Statement.

Historic Applications

[18/10970/FUL](#)

Application	Type:				Full
Description:	Demolish	and	replace	existing	dwelling.
Address:	Little Orchard,	Lower	Kingsdown	Road, Box,	Wiltshire
Status:	Application				Decided
Decision:	Approve	with			Conditions
Decision Date:	13/02/2019				

The above application is the original application that was approved to demolish the existing house and erect a new dwelling. This has been implemented insofar as the existing dwelling was demolished but the new house that has been erected has an additional basement storey.

[18/02372/FUL](#)

Application Type: Full
 Description: Remove side, rear extensions including front store and replace with new extensions, remove main house roof and rebuild with new design.
 Address: Little Orchard, Lower Kingsdown Road, Box, Wiltshire
 Status: Application Decided
 Decision: Approved with conditions
 Decision Date: 01/06/2018

After the above application was approved the applicants employed a structural engineer to evaluate the building prior to the approved works taking place. This revealed many defects in the original building and concluded it was inadequate to support the new loads with additional hazards in its construction (Health and Safety). The most viable way forward was deemed to be demolition and replacement and hence this permission was not implemented and the application for demotion and replacement was made to the local planning authority and was subsequently granted.

[16/05386/FUL](#)

Application Type: Full
 Description: Two storey rear extension
 Address: Little Orchard, Lower Kingsdown Road, Box, Wiltshire
 Status: Application Decided
 Decision: Approved with conditions
 Decision Date: 09/08/2016

Importantly this application included the addition of a basement storey to the property, not

dissimilar to the additional basement storey that has now been constructed. The plans submitted as part of this application also clearly show the existing terrace area which once again is not dissimilar to the raised deck proposed by this pre-application enquiry.

3. THE SITE

The site is located to the southern end of Kingsdown, a hamlet of linear development between Bathford and the village of Ashley. The properties are mixed, many detached properties of varying age and design style. Materials are varied also: rendered or stone walls under hipped clay and concrete tiled roofs. Typically traditional cottages in natural stone with stone or slate roofs intermixed with the modern reconstructed stone dwellings.

The application site is approximately 1646 sqm is roughly rectangular in shape and slopes steeply down to the rear (north west) boundary into the open valley.

The site boundaries are mixed with well established hedges and shrubs within the garden area. A Public Right of Way (BOX 85) runs in a north to south direction through the woodland some distance away to the northwest of the site down in the valley.



Figure 1: Site in Context with PRow BOX85¹

The site lies within an Area of Outstanding Natural Beauty and forms part of the Green Belt. The site is not in a Conservation Area.

¹ Adapted from Google Maps

4. PLANNING POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the provisions of the Development Plan (DP) unless material considerations indicate otherwise.

In this instance the adopted Development Plan comprises the following:

- Wiltshire Core Strategy (adopted 2015)
- Saved policies from the former District Council Local Plans
- Chippenham Site Allocations Plan
- Wiltshire Housing Site Allocations Plan
- Minerals and Waste Plans
- Made Neighbourhood Plans

The application site falls within the Box Neighbourhood Plan area. The status of Box Neighbourhood Plan is currently 'designated' meaning that draft policy under the Neighbourhood Plan has not yet been consulted on or adopted.

Emerging Plans

A number of plans are currently in preparation and as they progress towards adoption will begin to carry more weight in the decision making process;

- Wiltshires Local Plan
- Neighbourhood Planning
- Gypsy and Travellers DPD

Other Relevant Material Considerations

National Planning Policy Framework (Framework)

The Framework was last updated February 2025 and it sets out the government's planning policies for England and how these are expected to be applied.

The revised Framework continues to set out a presumption in favour of sustainable development. It identifies three facets of sustainable development: economic, social and environmental, noting that they are interdependent and need to be pursued mutually. Paragraph 11 sets out for decision taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan, and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Housing

Section 5 of the Framework, *Delivering a sufficient supply of homes* places significant weight on the need to 'boost significantly' the supply of homes. Paragraph 61 recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out quickly.

Previously Developed Land

It is clear that the appeal site is "previously developed land" and meets the definition of such land as set out in Annexe 2 of the Framework: *"Land which is or was occupied by a permanent structure, including the curtilage of the developed land"*.

Paragraph 124 of the Framework states:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions... (Paragraph 124, Framework).

Grey Belt

Following the introduction of the revised Framework, the term 'Grey Belt' now applies to these national policies.

The Framework defines 'Grey Belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to the areas or assets in footnote 7² (other than Green Belt) would provide a strong reason for refusing or restricting development.

For the avoidance of doubt the definition of 'Grey Belt' is as follows:

"For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development" (Annexe 2 of Framework)[SPLS Emphasis].

For completeness purposes (a), (b) and (d) are as follows:

"a) to check the unrestricted sprawl of large built-up areas;

² The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.

b) to prevent neighbouring towns merging into one another;

d) to preserve the setting and special character of historic towns;”

The site would not be located close to a built-up area; would not merge towns, nor affect the setting and special character of a historic town. Consequently, the site would not strongly contribute to purposes (a), (b), or (d) in paragraph 143 of the Framework, and thus would be considered ‘any other land’ for Grey Belt purposes.

The proposal would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Subsequently, it would accord with paragraph 155.a of the Framework.

Five Year Housing Land Supply

As confirmed in the appeal decisions 3303198³ and 3299290⁴, the LPA cannot demonstrate a 5 year housing land supply.

The Inspector, in the case of the latter appeal decision concluded:

“There is no dispute between the main parties that the Council is presently unable to demonstrate a five-year supply of deliverable housing sites, though there is some disagreement regarding the extent of the shortfall. The evidence presented by the appellant and the Council indicates that the supply lies in the range of 4.56 years to 4.72 years. The difference between the parties is not considerable, and even if I was to use the appellant's figure as a benchmark, the housing shortfall remains relatively modest.

Nevertheless, in such circumstances, paragraph 11d) of the Framework, as directed by Footnote 8, indicates that the policies which are most important for determining the application have to be considered out-of-date. The Framework also states that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole” (Paras 40-41, 3299290).

As of 15th October 2024 Wiltshire Council announced (Notice of Motion No. 2024-07 - Five Year Supply) that the Council were only able to demonstrate a 3.85 year supply. Consequently, for the purposes of paragraph 155.b. of the Framework, there is a demonstrable unmet need for the type of development proposed.

For completeness, the proposed development is not major development, and therefore the requirement of paragraph 155.d. of the Framework, to satisfy the ‘Golden Rules’, are not applicable to the appeal proposal.

³ Decision date 8th March 2023

⁴ Decision date 25th November 2022

Overall, the proposed development would utilise grey belt land and would satisfy all the relevant criteria of paragraph 155 of the Framework. For this reason, the proposed development would not be inappropriate development within the Green Belt. Consequently, the development should not be regarded as harmful to either the openness of the Green Belt or to the purposes of including land within it in accordance with footnote 55 of the Framework.

Green Belt

The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (para 142). The construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions as set out in paragraph 154 of the Framework.

In this instance exception “d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*” (Paragraph 154, Framework) is relevant.

The Applicants also present that exception g) is relevant:

*“limited infilling or the partial or **complete redevelopment of previously developed land** (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause **substantial harm to the openness of the Green Belt**”* (para 154, Framework) [SPLS emphasis].

The latter exception is viewed as most relevant given the LPAs grounds for refusal (PL/2024/02925) which are specific to the construction of a ‘new dwelling’.

If development meets one or more of the exceptions set out at paragraph 154 of the Framework the proposals do not need to demonstrate that “very special circumstances” exist.

Very Special Circumstances

Notwithstanding the above, the Applicants also progress the clear case for very special circumstances in this instance.

Paragraph 153 of the Framework states; ‘*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*’ (Paragraph 153, Framework).

In this instance, harm arising to the Green Belt is very low given that the addition of the basement storey has not impacted the openness or function of the Green Belt. Furthermore, the site is previously developed land and can comfortably be considered as ‘Grey Belt’ land as already set out above.

Furthermore, very special circumstances arise from one of the occupants of the property being disabled and therefore requiring a bedroom accessible via a lift which have necessitated the addition of the basement storey. There is no question on this requirement as evidenced by (Confidential) medical records provided to the LPA in confidence.

Presumption in Favour - Tilted Balance

There are two aspects to understanding whether planning permission as prescribed by Paragraph 11(d) of the Framework should be granted and whether policies which are most important to determining the application are out of date. The first is where the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development.

As the Planning Officer's Report (POR) for PL/2024/02925 records in respect of impact (or rather lack of) on the National Landscape the Appellant finds that there are no footnote 7 policies (Green Belt is excluded as set out above) which would provide a clear reason for refusing the development.

The POR clearly finds:

"The dwelling sits in place of a previous residential dwelling, and seen within the context of a row of dwellings, where it is bordered on both sides by residential dwellings. The character of the site remains similar, aside from a bulkier dwelling."

AND

"... it is not considered the proposal would cause harm to the Cotswold National Landscape given the site context and appropriate materials" (p9, POR).

Accordingly, it is clear that there is no 'strong reason' for refusing the development proposed.

Therefore, the development should be granted planning permission unless:

"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole". (Para 11, d) ii), Framework)

This is the context in which the proposals must be assessed and determined.

5. ASSESSMENT

The main issues in this pre-application enquiry are:

- **Main Issue 1:** Whether the principle of a dwelling in this location is acceptable having regard to all relevant material planning considerations.
- **Main Issue 2:** Whether the dwelling is considered to be inappropriate development within the Green Belt
- **Main Issue 3:** Whether there are very special circumstances.
- **Main Issue 4:** Whether the proposed terrace/decking area has an acceptable impact on adjoining neighbours.
- **Main Issue 5:** Whether there are other relevant material considerations to weigh in the favour of approval in the planning balance.

Main Issue 1: Whether the principle of a dwelling in this location is acceptable having regard to all relevant material planning considerations.

Firstly, it is important to refer the LPA back to the planning history of the site and the most recent planning approval for a replacement dwelling on the appeal site (ref 18/10970/FUL).

The site has benefitted from a dwelling and the proposals represent an amended replacement dwelling scheme. The reasons for the amended scheme are outlined against Main Issue 3 below.

Notwithstanding the above, it is clear that the site represents the filling of a small gap within the existing built area of the settlement.

The development is in keeping with the prevailing linear pattern of development.

Consequently, the site is viewed in context with the wider built form of the settlement.

Finally, as discussed above in Section 4, under the headings 'Grey Belt', 'Five Year Housing Land Supply' and 'Tilted Balance' the principle of a dwelling in this location is acceptable.

Main Issue 2: Whether the dwelling is considered to be inappropriate development within the Green Belt

Firstly, the development is clearly a replacement dwelling. This was the intent of the Applicants. The principle of a replacement dwelling had been approved previously through planning permission 18/10970/FUL. A replacement dwelling is specifically allowed under exception d) of para 154 of the Framework. If the LPA considers that this is a new dwelling, discounting the relevant planning history of the site, then the proposal equally complies with exception e) limited infilling in villages.

The matter of 'Grey Belt' and the appropriate assessment provided above is the overriding policy consideration which weighs in favour of approval in respect of the principle of development. The Applicants accept that this policy intervention was not published at the

time of the LPAs previous decision but it now represents a significant policy shift and one which must be viewed as an enabling policy for housing delivery as per its intention.

Main Issue 3: Whether there are very special circumstances.

As mentioned in the introduction to this report, in 2018 the applicant's daughter, who was 18 years old at the time, became ill. By 2020, while the build was still underway, the daughter's condition deteriorated such that she was rendered wheelchair bound. Therefore, a disabled lift was provided from the ground floor to the basement and disabled facilities were provided within the basement level including a bedroom and bathroom for the daughter. It was not practicable to provide such a lift to the first floor of the dwelling for technical reasons to do with the layout of the build.

Paragraph 153 of the Framework states; *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'*

The addition of the basement storey had a significant positive impact on the occupants quality of life. As outlined above, the addition of the basement storey has no impact on the openness or function of the Green Belt, particularly in the context of the site being classified as Grey Belt. Therefore, when assessing the balance of no harm to the Green Belt against the important difference the basement storey made to the occupants quality of life, it is clear that the planning balance tilts in favour of granting planning consent for the basement storey (and the dwelling as a whole).

The UN Convention on the Rights of Persons with Disabilities came into force on 3 May 2008. Its purpose under Article 1 is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The UK agreed to adopt the UN Convention.

Under Section 149 of the Equality Act 2010 a public authority must, *'in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.'* In determining this planning application positively, the LPA has the opportunity to advance the equality of the disabled occupant of the new dwelling by granting them the opportunity to enjoy accommodation that has been specifically designed to improve their quality of life.

The Equality Act 2010 is clear in that the focus of the disability is upon the 'impairment' on the ability to carry out day-to-day activities. It is clear that the applicant's daughter requires their assistance and are her carers. The Applicants, being carers, are protected by the Carers (recognition & Services) Act 1995 and the Care Act 2014.

The PPG chapter on Housing Needs of Different Groups states that authorities must consider the implications of their duties under the EA 2010 when considering the identified needs of specific groups.

Furthermore, The Human Rights Act 1998 confirms that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. The word “act” in that context, under s6(6), includes a failure to act.

The LPA are referred to the supporting medical evidence provided as a confidential document to this pre-application enquiry.

It is therefore clear that on this point alone that very special circumstances do exist and clearly outweigh the negligible harm discussed above from the provision of a basement level that is only visible from one elevation. The property’s basement level is not visible from public vantage points as set out in the supporting photographs.

Consideration should also be given to the circumstances that preceded the addition of the basement storey to the property. The site is located on a steep bank which is made up of land-slipped Fuller’s earth, which means that development in this area can slip on an arch down the bank. This is well known locally with evidence in the past of this occurring.

Whilst a Geotechnical Report was prepared prior to commencement of construction which concluded; *‘If no basement is to be included in the scheme, the new foundations will need to extend through the Landslip, and into the undisturbed strata beneath. Consequently, some form of piled foundation will be appropriate. From past experience, bored piling will be preferred to driven. Bored piles should be taken an adequate depth below the basal landslip surface. Depending on the overall scheme of piling adopted, the piles could extend almost twice the depth of the Landslip thickness. 10-15m piles could be appropriate, unless supplementary raking piles are included in the scheme.*

For a scheme without a basement, and HRF of about 40 kN/m² a new retaining structure, may well be appropriate. If a basement is to be included within the scheme, then a contiguous bored pile wall may be the most technically and cost-effective method to adopt. That wall can accommodate a 2-3m deep basement, and may need to be designed for an HRF in the range 150 – 200 kN/m².

At this stage it would be appropriate to issue a copy of this report to an experienced bored piling contractor to estimate the size of bored piles required, together with the appropriate reinforcement. That will enable realistic costings to be prepared for both the ‘no basement’ and ‘basement’ options so that appropriate decisions can be reached.’

The report therefore commented on both a basement and non-basement option but concluded that the most appropriate solution would only be apparent following further assessment of the ground conditions. Following this assessment and the requirements of the Applicant’s daughter the option of a basement was taken forward as this provided the required living space *and* a suitable response to the soil’s qualities.

The applicant's intention when embarking on the construction works was to construct the new dwelling as per the approved planning permission without the basement. However, during the groundwork and foundations phase of the build, advice from a structural engineer was to provide a basement as a part of the foundations of the build.

The addition of the basement storey was therefore a practical solution in response to the issues encountered during the construction of the dwelling. Paragraph 124 of the Framework states; *'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions'*. (Paragraph 124, Framework). The addition of the basement storey represents an effective use of the land with no significant adverse environmental impacts whilst providing the applicant with a healthy living environment that responds to their specific disability needs.

Main Issue 4: Whether the proposed terrace/decking area has an acceptable impact on adjoining neighbours.

The Applicants have not yet constructed the raised deck so the impact on adjoining property can not be visualised in a practical sense. The previous now demolished property had a large area of decking connecting the house at the side and back down to the garden and therefore the inclusion of a raised deck to the new property is simply recreating the situation that existed prior to the redevelopment of the property. This is evidenced in *Figure 2* below which demonstrates a directly comparable extent of decked area.

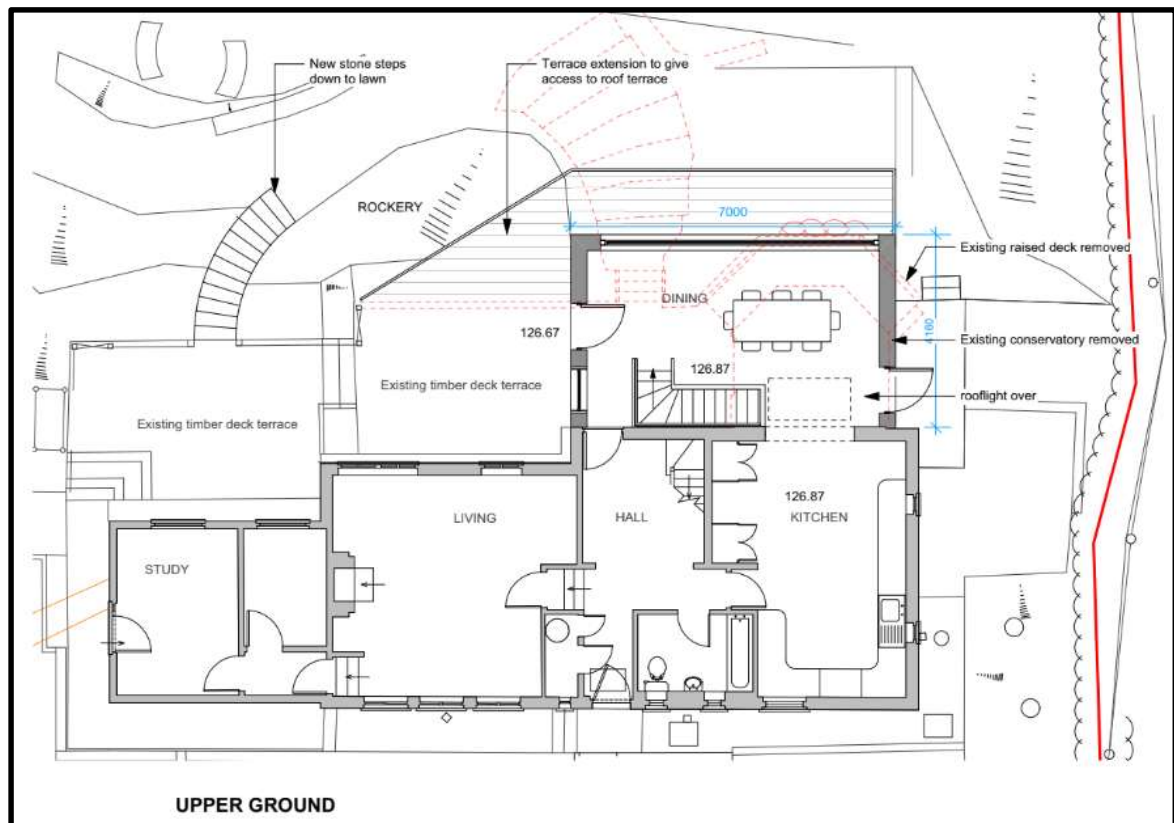


Figure 2: Plans Demonstrating Existing Timber Deck under Approval 16/05386/FUL

The new property and the adjacent properties either side are set within substantial plots with generous separation distances between the properties and intervening, well-established boundary treatments. There is therefore a separation distance between the proposed raised deck and the neighbouring house and garden. This, coupled with the orientation of the neighbouring properties either side ensure that the decked area is set back behind the rear building line of the property to the south west and angled away and largely behind the property to the north east.

Notwithstanding this, the plans for consideration in this pre-application enquiry proposed a privacy screen to the south west elevation to ensure that there is no significant detrimental impact on the amenity of the adjoining property.

Main Issue 5: Whether there are other relevant material considerations to weigh in the favour of approval in the planning balance.

The Council cannot demonstrate a five year supply of housing land. The Framework makes clear that one of the objectives of the Government is to significantly boost the supply of housing.

The site is previously developed land and constitutes 'Grey Belt' in a sustainable location and the proposed development would be making an efficient use of the land.

The scheme would provide a small boost to housing supply, on an infill site, which is anticipated within the Development Plan and national policy.

The proposals provide specialised accommodation to meet the needs of the Applicants' disabled daughter.

There would be social and economic benefits to the local area during construction and in subsequent occupation.

There is a clear benefit in this instance in regards to sustainability is the fact that the proposals re-use an existing building. This allows for embodied carbon from construction to be retained.

The cumulative benefits afford considerable weight in favour of approval beyond the fact that the proposals accord with the Development Plan and revised Framework when read as a whole.

As set out above, the proposals achieve the three dimensions of sustainable development and result in significant social, economic and environmental benefits which are considered to carry further substantial weight in favour of the proposals.

Accordingly, the Applicants respectfully request that the LPA support the pre-application enquiry and allow the Applicants to proceed with a full planning application to regularise the development.

Conclusion

On balance, it is not considered that the partially exposed basement level is contrary to the aims and purposes of the Green Belt. The revised Framework provides an enabling policy context for the dwelling on what is considered to be 'Grey Belt' land.

The entire removal of the basement storey from forming part of the residential living area would negatively impact the living environment of the occupant whilst making no discernible visual or environmental enhancement to the dwelling or its surroundings.

Furthermore, as discussed above, there was a need for structural changes during construction to allow for stability as well as provide for quality of life for the Applicants' disabled daughter.

The addition of a raised deck does not create an unacceptable impact on the amenity of neighbouring properties and has been adequately mitigated through the provision of a privacy scheme.

It is considered, as set out in this supporting statement, that there is sufficient planning merit to grant planning consent to regularise the planning position with respect to the new dwelling with the partially exposed basement and raised deck.

PROPOSED ALTERATIONS TO APPROVED HOUSE TO INCLUDE BASEMENT: LITTLE ORCHARD, KINGSDOWN, BOX, WILTS.



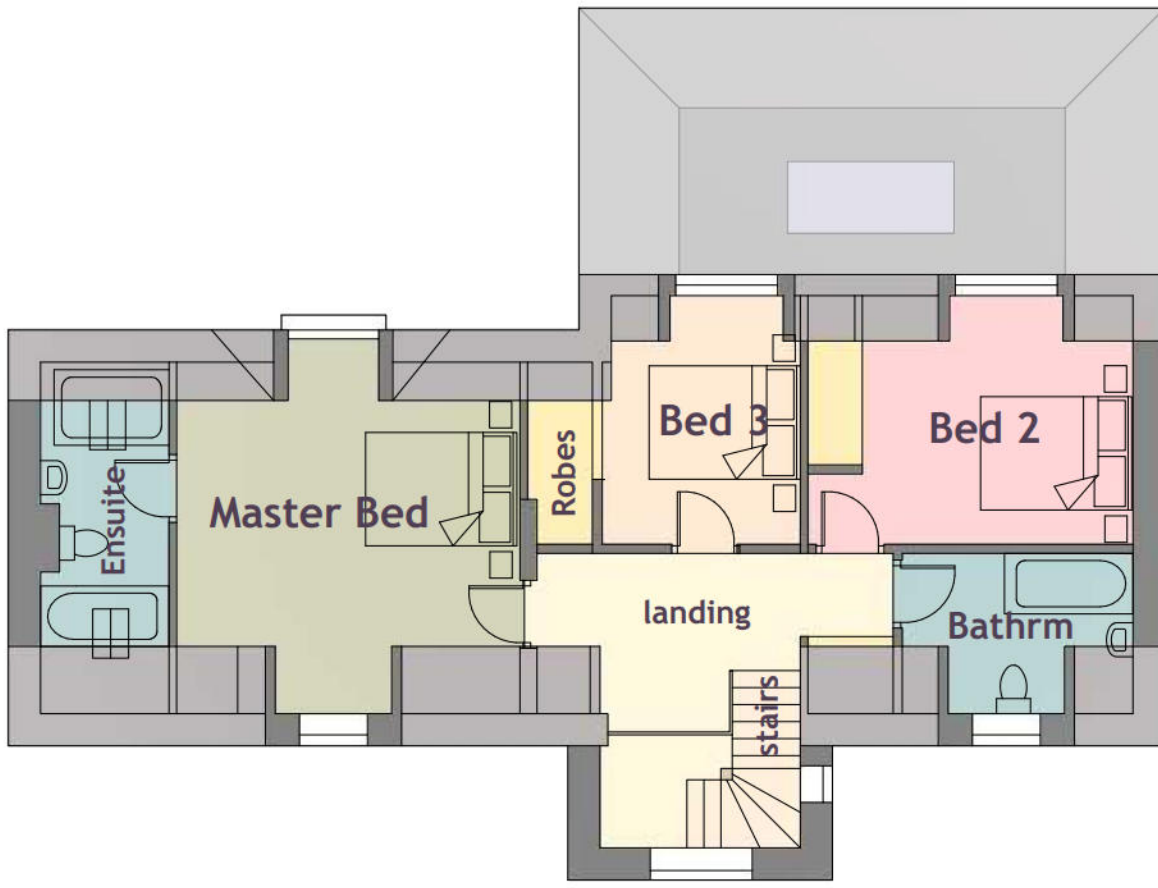
South East Elevation 1:100

North East Elevation 1:100

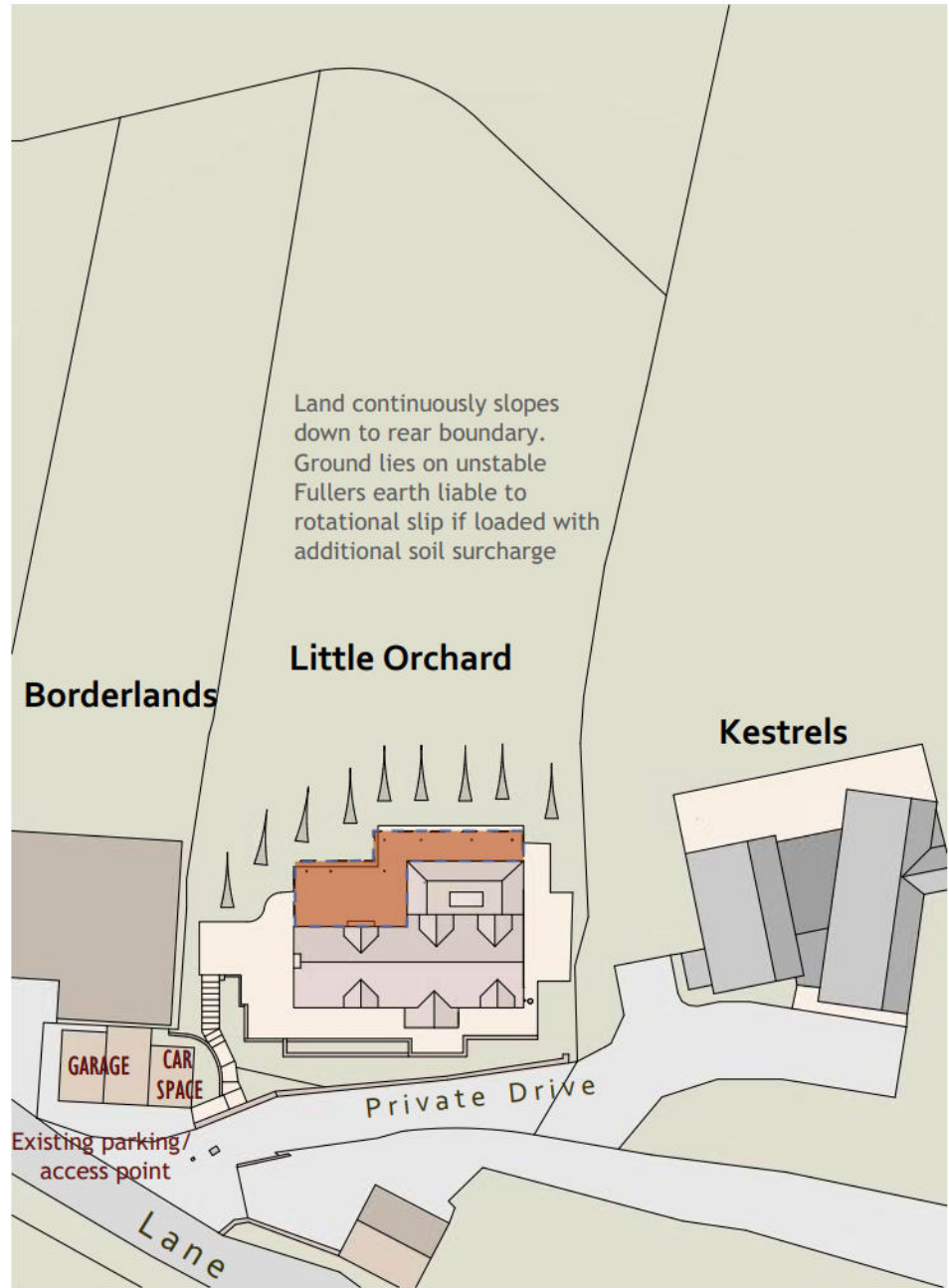
North West Elevation 1:100



Ground Floor Plan 1:100



First Floor Plan 1:100

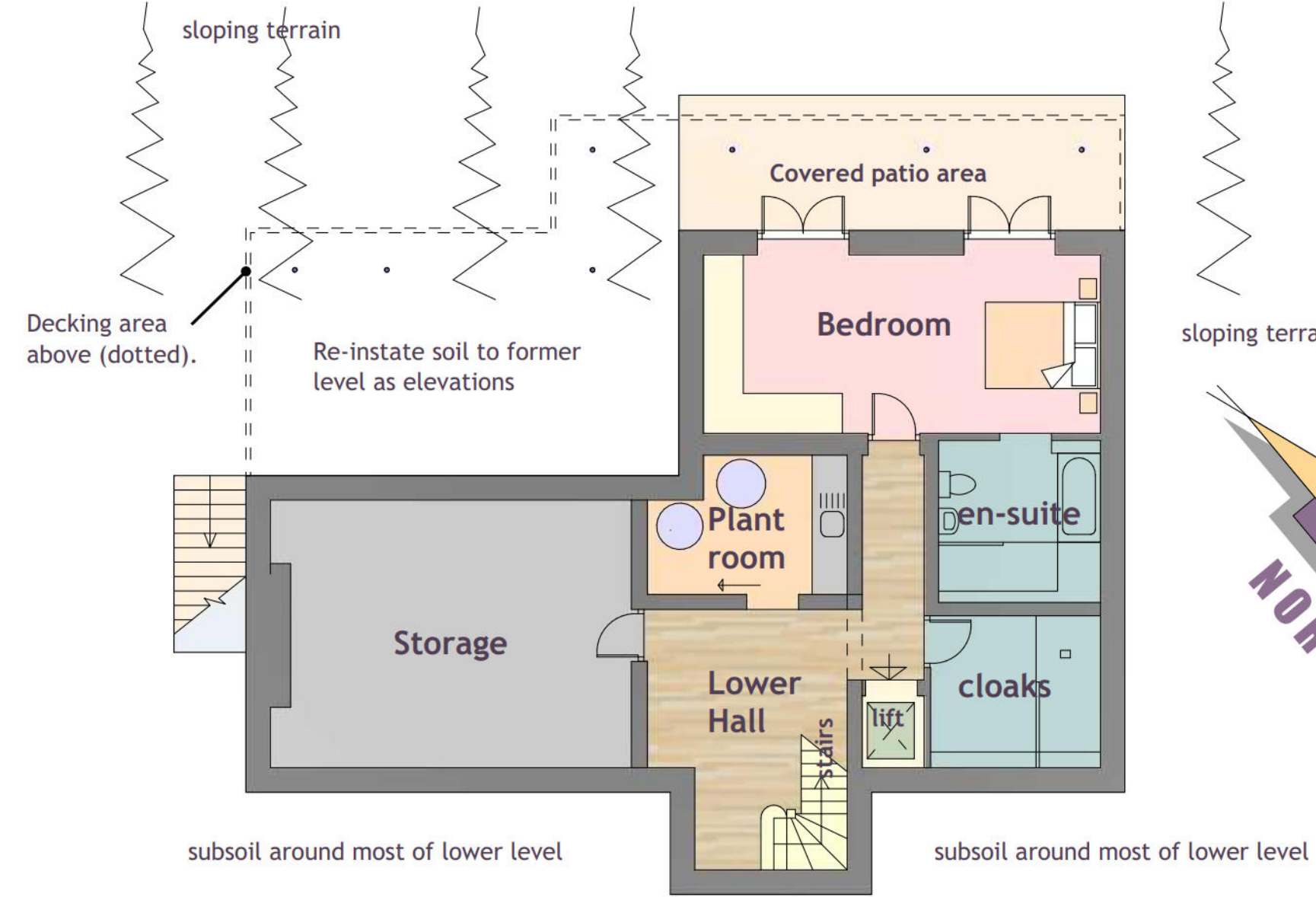


Block Plan 1:500

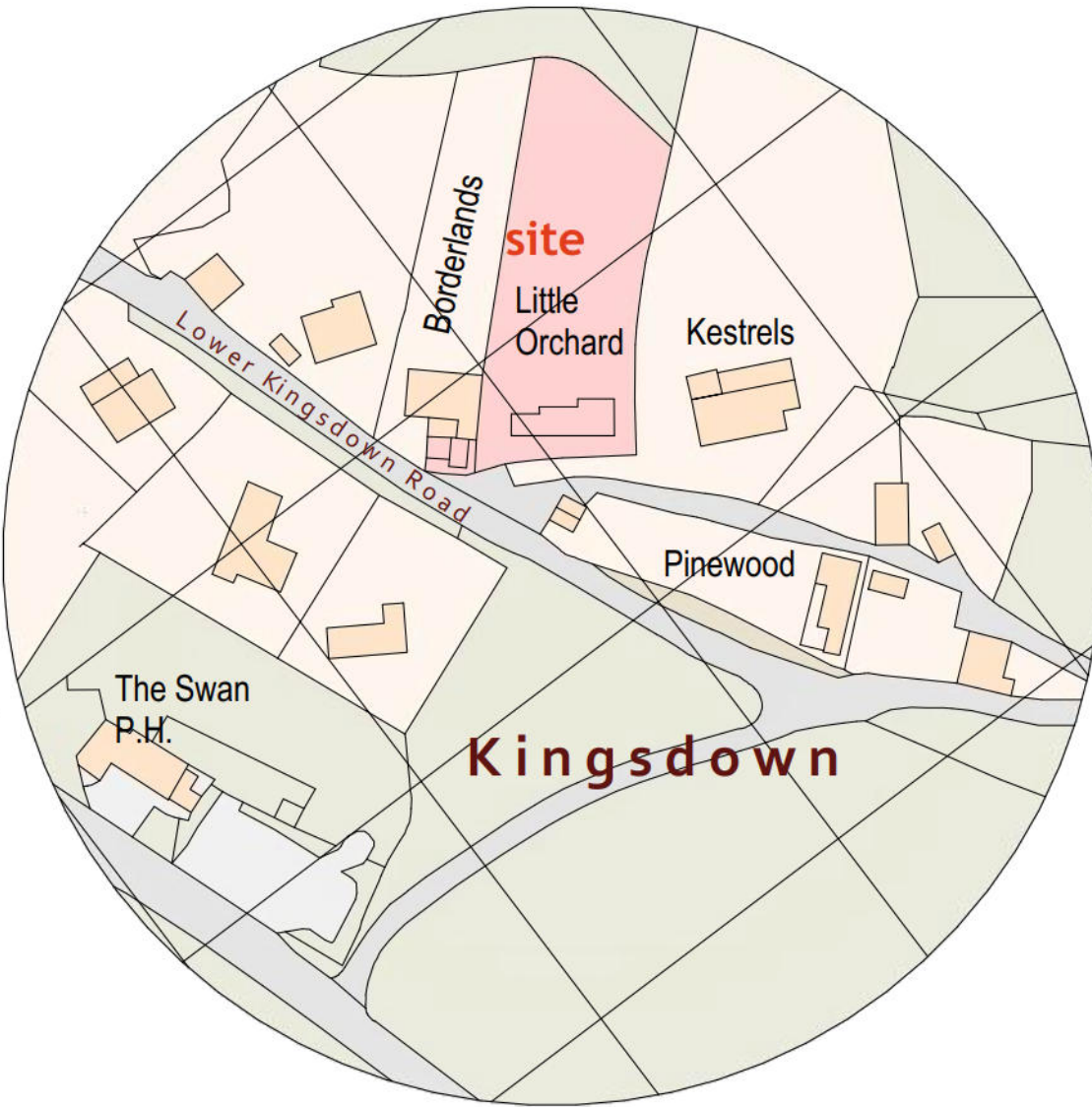


South East Elevation 1:100

Scale Bar (A2 print out = 1:100 scale).



Basement Floor Plan 1:100



Location Plan 1:1250

Scale Bar (A2 print out = 1:1250 scale).



Former bungalow demolished to make way for new build (side elevation).

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PROJECT: ALTERATIONS TO NEW DWELLING, LITTLE ORCHARD, KINGSDOWN, BOX, WILTS FOR MR P. DE WITTE.

DRAWING No:- 900 / CAM/2018/2 REV D DATE: JAN. 2025

SCALES:- ELEVATIONS & FLOOR PLANS 1:100

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PLANNING STATEMENT

**RETROSPECTIVE FULL APPLICATION FOR
ERECTION OF ONE DWELLING (NOT BUILT IN
ACCORDANCE WITH CONSENT REF:
18/10970/FUL)**

AT

**LITTLE ORCHARD, LOWER KINGSDOWN ROAD,
KINGSDOWN, CORSHAM, WILTSHIRE, SN13 8BD**

**SUTHERLAND PROPERTY
& LEGAL SERVICES LTD**



PLANNING & ARCHITECTURAL CONSULTANCY SERVICE

1. INTRODUCTION & PROPOSAL

This Planning Statement is submitted on behalf of Mr and Mrs de Witte (“the Applicants”) in respect of Little Orchard, Lower Kingsdown Road, Box, Wiltshire SN13 8BD (the “application site”).

Full planning permission was previously granted in February 2019 for the demolition and replacement of an existing dwelling (planning reference 18/10970/FUL). The Applicants understood that this planning permission was implemented with the demolition of the existing dwelling and the erection of the new dwelling that now occupies the application site.

It is acknowledged by the Applicants that the new dwelling does not accord with the approved plans referenced under condition 2 of the approved planning consent and this application is being submitted to remedy the breach of planning control which has arisen as a result of the failure to construct the dwelling in accordance with the relevant approved plans.

The proposed amendments to the ‘as approved’ scheme ensure that the basement level is screened through re-instating soils to their former level so as the development reads as a partially exposed basement level. It is important that the retained area of habitable floorspace benefits from means of escape in the event of a fire onto the garden area. The justification for this approach is to retain the living space for the Applicants’ daughter who requires specialised accommodation to meet her medical needs whilst significantly reducing the volume and appearance of built form. The Applicants are satisfied that this is an appropriate and proportionate compromise to satisfy all parties. The area shown on previous plans as a ‘storage’ area is no longer proposed to be retained for such use and this area will be closed off from access and it will become an unused void space below the ground floor level.

With regards to the addition of a raised deck, whilst it is acknowledged that this was not included in the planning consent, there was previously a large area of decking connecting the house at the side and back down to the garden. Therefore, the addition of the raised deck is not considered to be a substantive change from the former dwelling on the site. The raised deck area will be fitted with privacy screening to ensure that the living conditions and privacy of the residents of the neighbouring dwelling are protected.

The Applicants did not intentionally construct a different dwelling to that which planning permission had been granted for. When the decision was made to add the basement storey the Applicants agent emailed the LPA to ask whether the erection of a basement would be an issue and received a written reply of response that the Applicants and their agent felt that they could rely on in erecting the basement.

Furthermore, the new dwelling has been constructed in full accordance with building regulations and has been inspected by the local authority building inspector at various stages throughout the course of the build and on completion and benefits from building inspector approval that the new dwelling complies with Building Regulations.

2. RELEVANT PLANNING HISTORY

Attempts to Regularise Works

The pertinent planning application history is listed below.

PL/2023/07905

Variation of condition 2 of 18/10970/FUL - To allow for amendments to the approved floor plans and elevations (Withdrawn).

The above application was submitted to regularise the planning permission to amend the approved plans to incorporate the additional basement storey. However, discussion with the LPA the Applicants agreed to withdraw the Section 73 application and deal with the matter by way of a retrospective planning application.

PL/2024/02925

Retrospective planning application for the retention of dwelling (built not in accordance with the approved plans on 18/10970/FUL)

The application was refused on the following grounds:

The proposed development, by reason of its location, would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011.

The proposed (retrospective) new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with the replacement building criteria of paragraph 154 d) of the National Planning Policy Framework. The proposed (retrospective) new building is materially larger than the one it has replaced, and is therefore, by definition inappropriate development which conflicts with the purpose of the Green Belt. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152 & 154 of the National Planning Policy Framework (Dec 2023).

The proposed raised terrace/decking area causes an adverse impact to the amenity of adjoining neighbours in terms of privacy due to the overlooking and sense of overlooking from the terrace/decking area. There is a lack of screening to protect the privacy of neighbours. The proposal is contrary to Core Policy 57 vii of the Wiltshire Core Strategy (Jan 2015).

Accordingly, the above grounds for refusal form the basis of the 'Main Issues' that will be addressed through this Statement.

Historic Applications

18/10970/FUL

Demolish and replace existing dwelling (Approve with Conditions 13/02/2019).

The above application is the original application that was approved to demolish the existing house and erect a new dwelling. This has been implemented insofar as the existing dwelling was demolished but the new house that has been erected has an additional basement storey.

18/02372/FUL

Remove side, rear extensions including front store and replace with new extensions, remove main house roof and rebuild with new design (Approved with conditions 01/06/2018).

After the above application was approved the applicants employed a structural engineer to evaluate the building prior to the approved works taking place. This revealed many defects in the original building and concluded it was inadequate to support the new loads with additional hazards in its construction (Health and Safety). The most viable way forward was deemed to be demolition and replacement and hence this permission was not implemented and the application for demotion and replacement was made to the local planning authority and was subsequently granted.

16/05386/FUL

Two storey rear extension (Approved with conditions 09/08/2016).

Importantly this application included the addition of a basement storey to the property, not dissimilar to the additional basement storey that has now been constructed. The plans submitted as part of this application also clearly show the existing terrace area which once again is not dissimilar to the raised deck proposed by this application.

3. SITE DESCRIPTION & CONSTRAINTS

The site is located to the southern end of Kingsdown, a hamlet of linear development between Bathford and the village of Ashley. The properties are mixed, many detached properties of varying age and design style. Materials are varied also: rendered or stone walls under hipped clay and concrete tiled roofs. Typically, traditional cottages in natural stone with stone or slate roofs intermixed with the modern reconstructed stone dwellings.

The application site is approximately 1646 sqm is roughly rectangular in shape and slopes steeply down to the rear (northwest) boundary into the open valley.

The site boundaries are mixed with well-established hedges and shrubs within the garden area. A Public Right of Way (BOX 85) runs in a north to south direction through the woodland some distance away to the northwest of the site down in the valley.



Figure 1: Site in Context with PRow BOX85¹

The site lies within an Area of Outstanding Natural Beauty and forms part of the Green Belt. The site is not in a Conservation Area.

4. PLANNING POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the provisions of the Development Plan (DP) unless material considerations indicate otherwise.

In this instance the adopted Development Plan comprises the following:

- Wiltshire Core Strategy (adopted 2015)
- Saved policies from the former District Council Local Plans
- Chippenham Site Allocations Plan
- Wiltshire Housing Site Allocations Plan

¹ Adapted from Google Maps

- Minerals and Waste Plans
- Made Neighbourhood Plans

The application site falls within the Box Neighbourhood Plan area. The status of Box Neighbourhood Plan is currently 'designated' meaning that draft policy under the Neighbourhood Plan has not yet been consulted on or adopted.

Emerging Plans

A number of plans are currently in preparation and as they progress towards adoption will begin to carry more weight in the decision making process;

- Wiltshire's Local Plan
- Neighbourhood Planning

OTHER RELEVANT MATERIAL CONSIDERATIONS

National Planning Policy Framework (Framework)

The Framework was last updated in December 2024, and it sets out the government's planning policies for England and how these are expected to be applied.

The revised Framework continues to set out a presumption in favour of sustainable development. It identifies three facets of sustainable development: economic, social and environmental, noting that they are interdependent and need to be pursued mutually.

Paragraph 11 sets out for decision taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan, and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Housing

Section 5 of the Framework, *Delivering a sufficient supply of homes* places significant weight on the need to 'boost significantly' the supply of homes. Paragraph 61 recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out quickly.

Previously Developed Land

It is clear that the appeal site is "previously developed land" and meets the definition of such land as set out in Annexe 2 of the Framework: "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land*".

Paragraph 124 of the Framework states:

“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions...”

Grey Belt

The revised NPPF was published In December 2024. Among its key changes, were a new method for calculating housing need and the concept of the ‘Grey Belt.’ Grey belt policy has arisen from the Government’s acknowledgment that there is insufficient brownfield land to meet development needs. It also responds to calls to look to poorly performing Green Belt sites, before looking to develop other Green Belt and/or green field sites.

The definition of the grey belt is in two paragraphs:

Grey belt: For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.

‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

This definition creates a two-step test. The first is a Green Belt contributions assessment, against three Green Belt purposes (rather than five in the consultation NPPF), which requires consideration of the land in question. The second is an areas and assets assessment, which requires consideration of the development proposed.

The Government has explained that the grey belt definition deliberately includes land that is not previously developed *“as we believe it is important that we also consider the development potential of land which, though it may be formally designated as Green Belt, no longer adequately serves the Green Belt purposes”*.

Stage 1: Grey belt tests

Test 1: Contribution assessment – relating to the land

(This test derives from the first paragraph of the grey belt definition)

The Green Belt serves five purposes (para 143), which have not been amended and remain as follows:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

To be considered grey belt, land will not strongly contribute to Green Belt purposes a), b) or d) - even if it performs well against c) and e). Conversely, land strongly contributing to any of these three criteria would not be considered grey belt.

Furthermore, land that contributes to Green Belt purposes a), b) or d), but does not strongly contribute to any of those purposes, can be grey belt. (All subject to the protected assets and areas/footnote 7 assessment at Test 2, see below.)

The Government has provided guidance intended to ensure a more consistent approach to the identification of grey belt land and how the performance of Green Belt should be assessed. The following text is taken from the Planning Practice Guidance (PPG) which was updated on 27 February 2025:

How should the contribution land makes to the relevant Green Belt purposes be assessed?

When making judgements as to whether land is grey belt, authorities should consider the contribution that assessment areas make to Green Belt purposes a, b, and d.

Considerations for informing these judgements are set out below:

Purpose A – to check the unrestricted sprawl of large built up areas

This purpose relates to the sprawl of large built up areas. Villages should not be considered large built up areas.

Contribution	Illustrative features
Strong	Assessment areas that contribute strongly are likely to be free of existing development, and lack physical feature(s) in reasonable proximity that could restrict and contain development. They are also likely to include all of the following features: - be adjacent or near to a large built up area - if developed, result in an incongruous pattern of development (such as an extended “finger” of development into the Green Belt)
Moderate	Assessment areas that contribute moderately are likely to be adjacent or near to a large built up area, but include one or more features that weaken the land’s contribution to this purpose a, such as (but not limited to): - having physical feature(s) in reasonable proximity that could restrict and contain development - be partially enclosed by existing development, such that new development would not result in an incongruous pattern of development - contain existing development - being subject to other urbanising influences

Contribution	Illustrative features
Weak or None	Assessment areas that make only a weak or no contribution are likely to include those that: - are not adjacent to or near to a large built up area - are adjacent to or near to a large built up area, but containing or being largely enclosed by significant existing development

Purpose B – to prevent neighbouring towns merging into one another

This purpose relates to the merging of towns, not villages.

Contribution	Illustrative Features
Strong	Assessment areas that contribute strongly are likely to be free of existing development and include all of the following features: - forming a substantial part of a gap between towns -/- the development of which would be likely to result in the loss of visual separation of towns
Moderate	Assessment areas that contribute moderately are likely to be located in a gap between towns, but include one or more features that weaken their contribution to this purpose, such as (but not limited to): - forming a small part of the gap between towns - being able to be developed without the loss of visual separation between towns. This could be (but is not limited to) due to the presence or the close proximity of structures, natural landscape elements or topography that preserve visual separation
Weak or None	Assessment areas that contribute weakly are likely to include those that: - do not form part of a gap between towns, or - form part of a gap between towns, but only a very small part of this gap, without making a contribution to visual separation

Purpose D – to preserve the setting and special character of historic towns

This purpose relates to historic towns, not villages. Where there are no historic towns in the plan area, it may not be necessary to provide detailed assessments against this purpose.

Contribution	Illustrative Features
Strong	Assessment areas that contribute strongly are likely be free of existing development and to include all of the following features: - form part of the setting of the historic town - make a considerable contribution to the special character of a historic town. This could be (but is not limited to) as a result of being within, adjacent to, or of significant visual importance to the historic aspects of the town
Moderate	Assessment areas that perform moderately are likely to form part of the setting and/or contribute to the special character of a historic town but

Contribution	Illustrative Features
	include one or more features that weaken their contribution to this purpose, such as (but not limited to): - being separated to some extent from historic aspects of the town by existing development or topography - containing existing development - not having an important visual, physical, or experiential relationship to historic aspects of the town
Weak or None	Assessment areas that make no or only a weak contribution are likely to include those that: - do not form part of the setting of a historic town - have no visual, physical, or experiential connection to the historic aspects of the town

'Purpose A' assessment:

The PPG makes it clear that "*Villages should not be considered large built up areas*" and the application site is located within a village. The site is also bordered by existing development, notably residential development. The PPG advises that when a site is "*adjacent to or near to a large built up area, but containing or being largely enclosed by significant existing development*" then that site's contribution to the Green Belt is 'weak or none'.

'Purpose B' assessment:

The PPG advises that assessment areas that contribute weakly are likely to include those that "*do not form part of a gap between towns*" or those that "*form part of a gap between towns, but only a very small part of this gap, without making a contribution to visual separation*".

In the case of the application site, it is highly debatable as to whether or not it forms 'part of a gap between towns', given the separation distances between it and the nearest towns.

However, even if the site is deemed to form part of such a gap, then it is clearly evident that it is only a minute part of the relevant gap between the nearby towns and given the prevalence of existing built form around the site, it is impossible to see how the site is capable of making any form of notable contribution to the 'visual separation' of these neighbouring towns.

'Purpose D' assessment:

What is a historic town?

The updated PPG attempts to address this, but only partially. It offers limited clarification on the definition of a historic town, stating:

"This purpose relates to historic towns, not villages. Where there are no historic towns in

the plan area, it may not be necessary to provide detailed assessments against this purpose”.

While it is helpful that villages are explicitly excluded, historic towns are not defined. Cities are not mentioned but are presumably included. There is also an implicit suggestion that not all plan areas will contain a historic town, implying that a selective approach should be applied - though no formal criteria are provided. This leaves applicants and decision makers to debate what qualifies as a historic town.

The main reasonable questions to consider here would be:

- i) Does it contain a significant number of surviving historic buildings, streets, and spaces?
- ii) Does the town have a distinct historic identity and special character?
- iii) Is the town famous or notable for its historic significance?

The Applicants are of the view that the settlement in which the application site is located is not a ‘town’ for the purposes of grey belt policy. Even if it was deemed to be in a ‘town’ for the sake of this policy, it is highly unlikely to satisfy the criteria set out in points (i) to (iii) above.

Test 2: Protected assets and areas assessment – relating to proposed development (This test derives from the second paragraph of the grey belt definition).

To be considered grey belt development, development that is proposed on Green Belt land, which does not strongly contribute to green belt purposes a) b) or d) (i.e. has passed Test 1 above), either:

- does not fall within a footnote 7 asset or area; or
- where, within a footnote 7 asset or area, the application of the footnote 7 related NPPF policies would not provide a strong reason for refusing development. Footnote 7 is a footnote to paragraphs 11b and d of the NPPF, ‘presumption in favour of sustainable development’, which lists certain assets and areas. Footnote 7 says: *“The policies referred to are those in this Framework (rather than those in development plans) relating to:*

- *habitats sites (and those sites listed in paragraph 189 [or, more likely, para 194]) and/or designated as Sites of Special Scientific Interest;*
- *land designated as Local Green Space,*
- *a National Landscape,*
- *a National Park (or within the Broads Authority) or defined as Heritage Coast;*
- *irreplaceable habitats;*
- *designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and*
- *areas at risk of flooding or coastal change”.*

The reference to footnote 7 within the grey belt definition makes clear that where the application of policies listed at footnote 7 would not give a strong reason for refusing or

restricting development, that development is not excluded from being grey belt. The reference to “strong reason for refusing” is a reference to a planning decision.

Restricting in the context of a planning application would mean refusing at determination. There are references to restriction by condition in the NPPF, but restricting is the terminology used in para 11b(i), which also refers to footnote 7. Therefore, it is much more likely that the Government has replicated the terminology used in both paragraphs that refer to footnote 7 – refusing for decision making and restricting for plan-making. For this reason, the Applicants do not consider that planning applications on potential grey belt sites need to consider what restriction means.

The revised definition of grey belt (compared with the consultation version) has provided confirmation that land is not to be ruled out of being grey belt simply if it is a footnote 7 asset or area. But rather, where applicable, NPPF policy regarding those assets and areas will need to be applied to the proposal in question, in order to determine whether a site is grey belt or not as well as to determine whether a proposed development satisfies those specific policies.

‘Grey Belt’ Conclusion:

At the end of the application of Tests 1 and 2 of Stage 1 it is concluded that the application site is capable of being treated as grey belt land.

Stage 2 – ‘Appropriateness tests’ – is the development ‘not inappropriate’?

Where land is identified as grey belt land, any proposed development of that land should be considered against paragraph 155 of the NPPF, which sets out the conditions in which development would not be inappropriate on grey belt land.

- The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- There is a demonstrable unmet need for the type of development proposed (defined in footnote 56 for housing); [and]
- The development would be in a sustainable location.

The Stage 2 appropriateness tests for grey belt

a) What is not fundamentally undermining the purposes (taken together) of the remaining Green Belt?

The Green Belt PPG says, at para 008: *“In reaching this judgement, authorities should consider whether, or the extent to which, the release or development of Green Belt Land would affect the ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way”*.

The Green Belt covers a significant area of the Council’s District and in that context, the limited extent of the application site and form of proposed development would not

fundamentally undermine the purposes (taken together) of the remaining Green Belt across the district.

b) What is demonstrable unmet need?

There is opportunity for the grey belt to appear suitable for development in decision taking, as the NPPF makes clear that green belt development should not be regarded as inappropriate where:

- Development would utilise grey belt land in sustainable locations
- In the case of ‘major development’, the so-called ‘Golden Rules’ are satisfied:
 - o at least 15% affordable housing (above relevant policy requirement, up to 50% cap), with appropriate proportion of social rent, subject to viability
 - o it provides necessary improvements to local or national infrastructure
 - o it provides new or improved green spaces accessible to the public
- LPAs cannot demonstrate a five-year housing supply or where the Housing Delivery Test indicates less than 75% delivery over the previous three years
- There is a demonstrable need for land to be released for development of local, regional or national importance.

c) Establishing whether the development would be in a sustainable location

Criterion c) is that *“the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework”*. NPPF paras 110 and 115 provide policy regarding sustainable growth patterns and transport, cost effective, vision-led mitigation of significant highway safety and transport network impact and safe, well designed development that reflects national guidance. The reference to these paragraphs is intended *“to illustrate the importance that issues around transport have for considerations of sustainability”*.

It seems that Government would like this approach to apply as much to applications as to the allocation of sites (para 011 of the Green Belt PPG is clear on this point). The development which is proposed is considered to be sustainably located given the proximity of the site to local services, facilities and public transport links – all of which are within reasonable walking distance of the site and which provide bus services to nearby settlements and the services and facilities which are contained within those larger settlements, as well as those which are already present within the vicinity of the application site itself.

In applying the ‘tilted balance’, the proposal is for a single new self-build dwelling which was a replacement for the dwelling which was in situ prior to the erection of the new dwelling. The contribution of the proposal to the housing land supply and mix of available housing types in the area would very small, but should be given weight nonetheless.

The economic investment into the local area through the use of local services and facilities is a long-term associated benefit to the economy given the scale of development.

Overall, it is considered that there would be no significant harm caused to the application site and the local area in which is located by approving the proposed development.

Five Year Housing Land Supply

As of 18 June 2025, Wiltshire Council were only able to demonstrate a 2.42 year supply (source: Wiltshire's Housing Land Supply Statement – Briefing Note No.25-04). Consequently, for the purposes of paragraph 155.b. of the Framework, there is a demonstrable unmet need for the type of development proposed.

For completeness, the proposed development is not major development, and therefore the requirement of paragraph 155.d. of the Framework, to satisfy the 'Golden Rules', are not applicable to the appeal proposal.

Overall, the proposed development would utilise grey belt land and would satisfy all the relevant criteria of paragraph 155 of the Framework. For this reason, the proposed development would not be inappropriate development within the Green Belt. Consequently, the development should not be regarded as harmful to either the openness of the Green Belt or to the purposes of including land within it in accordance with footnote 55 of the Framework.

Green Belt

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (para 142). The construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions as set out in paragraph 154 of the NPPF.

In this instance exception "d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*" (Paragraph 154, Framework) is relevant.

The Applicants also present that exception g) is relevant:

*"limited infilling or the partial or **complete redevelopment of previously developed land** (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause **substantial harm to the openness of the Green Belt**"* (para 154, NPPF) [SPLS emphasis].

The latter exception is viewed as most relevant given the LPAs grounds for refusal (PL/2024/02925) which are specific to the construction of a 'new dwelling'.

If development meets one or more of the exceptions set out at paragraph 154 of the NPPF the proposal does not need to demonstrate that "very special circumstances" exist.

Very Special Circumstances

Notwithstanding the above, the Applicants also progress the clear case for very special circumstances in this instance.

Paragraph 153 of the NPPF states; *‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations’.*

In this instance, harm arising to the Green Belt is very low given that the addition of the basement storey has not impacted the openness or function of the Green Belt. Furthermore, the site is previously developed land and can comfortably be considered as ‘Grey Belt’ land as already set out above. Since the pre-application inquiry was submitted to the LPA prior to this application being made, the amount of floorspace within the basement area has been significantly reduced so that the amount of floorspace being proposed at basement level is now sufficient to provide accommodation for the disabled occupant who requires their own dedicated space within the dwelling.

Furthermore, very special circumstances arise from one of the occupants of the property being disabled and therefore requiring a bedroom accessible via a lift which have necessitated the addition of the basement storey. There is no question on this requirement as evidenced by (Confidential) medical records which have already been provided to the LPA in confidence during the pre-application process.

Presumption in Favour - Tilted Balance

There are two aspects to understanding whether planning permission as prescribed by Paragraph 11(d) of the Framework should be granted and whether policies which are most important to determining the application are out of date. The first is where the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development.

As the Planning Officer’s Report (POR) for PL/2024/02925 records in respect of impact (or rather lack of) on the National Landscape the Applicants find that there is no footnote 7 policies (Green Belt is excluded as set out above) which would provide a clear reason for refusing the development.

The POR clearly finds:

“The dwelling sits in place of a previous residential dwelling, and seen within the context of a row of dwellings, where it is bordered on both sides by residential dwellings. The character of the site remains similar, aside from a bulkier dwelling.

AND

... it is not considered the proposal would cause harm to the Cotswold National Landscape given the site context and appropriate materials" (p9, POR).

Accordingly, it is clear that there is no 'strong reason' for refusing the development proposed.

Therefore, the development should be granted planning permission unless:

"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole". (Para 11, d) ii), Framework)

This is the context in which the proposals must be assessed and determined.

5. SUMMARY & CONCLUSION

Summary

The main issues in this application are considered to be:

- Main Issue 1: Whether the principle of a dwelling in this location is acceptable having regard to all relevant material planning considerations.
- Main Issue 2: Whether the dwelling is considered to be inappropriate development within the Green Belt
- Main Issue 3: Whether there are very special circumstances.
- Main Issue 4: Whether the proposed terrace/decking area has an acceptable impact on adjoining neighbours.
- Main Issue 5: Whether there are other relevant material considerations to weigh in the favour of approval in the planning balance.

Main Issue 1: Whether the principle of a dwelling in this location is acceptable having regard to all relevant material planning considerations.

Firstly, it is important to refer the LPA back to the planning history of the site and the most recent planning approval for a replacement dwelling on the appeal site (ref 18/10970/FUL).

The site has benefitted from a dwelling and the proposals represent an amended replacement dwelling scheme. The reasons for the amended scheme are outlined against Main Issue 3 below.

Notwithstanding the above, it is clear that the site represents the filling of a small gap within the existing built area of the settlement.

The development is in keeping with the prevailing linear pattern of development.

Consequently, the site is viewed in context with the wider built form of the settlement.

Finally, as discussed above in Section 4, under the headings 'Grey Belt', 'Five Year Housing Land Supply' and 'Tilted Balance' the principle of a dwelling in this location is acceptable.

Main Issue 2: Whether the dwelling is considered to be inappropriate development within the Green Belt

Firstly, the development is clearly a replacement dwelling and not the erection of a new dwelling on a site which has not accommodated residential development previously. This was the intent of the Applicants and remains as such now. The principle of a replacement dwelling had been approved previously through planning permission 18/10970/FUL. A replacement dwelling is specifically allowed under exception d) of para 154 of the NPPF. If the LPA considers that this is a new dwelling, discounting the relevant planning history of the site, then the proposal equally complies with exception e) limited infilling in villages.

The matter of 'Grey Belt' and the appropriate assessment provided above is the overriding policy consideration which weighs in favour of approval in respect of the principle of development. The Applicants accept that this policy intervention was not published at the time of the LPAs previous decision, but it now represents a significant policy shift and one which must be viewed as an enabling policy for housing delivery as per its intention.

Main Issue 3: Whether there are very special circumstances.

As mentioned earlier in this statement, in 2018 the Applicant's daughter, who was 18 years old at the time, became ill. By 2020, while the build was still underway, the daughter's condition deteriorated such that she was rendered wheelchair bound. Therefore, a disabled lift was provided from the ground floor to the basement and disabled facilities were provided within the basement level including a bedroom and bathroom for the daughter. It was not practicable to provide such a lift to the first floor of the dwelling for technical reasons to do with the layout of the build.

Paragraph 153 of the Framework states; 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'

The addition of additional floorspace at basement level has had a significant positive impact on the occupants quality of life. As outlined above, the addition of new floorspace at basement level has no impact on the openness or function of the Green Belt, particularly in the context of the site being classified as Grey Belt. Therefore, when assessing the balance of no harm to the Green Belt against the important difference the basement storey made to the occupants quality of life, it is clear that the planning balance tilts in favour of granting planning consent for the basement storey (and the dwelling as a whole).

The UN Convention on the Rights of Persons with Disabilities came into force on 3 May 2008. Its purpose under Article 1 is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities,

and to promote respect for their inherent dignity. The UK agreed to adopt the UN Convention.

Under Section 149 of the Equality Act 2010 a public authority must, 'in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.' In determining this planning application positively, the LPA has the opportunity to advance the equality of the disabled occupant of the new dwelling by granting them the opportunity to enjoy accommodation that has been specifically designed to improve their quality of life.

The Equality Act 2010 is clear in that the focus of the disability is upon the 'impairment' on the ability to carry out day-to-day activities. It is clear that the applicant's daughter requires their assistance and are her carers. The Applicants, being carers, are protected by the Carers (recognition & Services) Act 1995 and the Care Act 2014.

The PPG chapter on Housing Needs of Different Groups states that authorities must consider the implications of their duties under the EA 2010 when considering the identified needs of specific groups.

Furthermore, The Human Rights Act 1998 confirms that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. The word "act" in that context, under s6(6), includes a failure to act.

The LPA are referred to the supporting medical evidence which has already been provided as a confidential document to the previously submitted pre-application enquiry.

It is therefore clear that on this point alone that very special circumstances do exist and clearly outweigh the negligible harm discussed above from the provision of additional floorspace at basement level that is only visible from one elevation. The property's basement level is not visible from public vantage points.

Consideration should also be given to the circumstances that preceded the addition of the basement floorspace within the subject dwelling. The site is located on a steep bank which is made up of land-slipped Fuller's earth, which means that development in this area can slip on an arch down the bank. This is well known locally with evidence in the past of this occurring.

Whilst a Geotechnical Report was prepared prior to commencement of construction which concluded; 'If no basement is to be included in the scheme, the new foundations will need to extend through the Landslip, and into the undisturbed strata beneath. Consequently, some form of piled foundation will be appropriate. From past experience, bored piling will be preferred to driven. Bored piles should be taken an adequate depth below the basal landslip surface. Depending on the overall scheme of piling adopted, the piles could extend almost twice the depth of the Landslip thickness. 10-15m piles could be appropriate, unless supplementary raking piles are included in the scheme.

For a scheme without a basement, and HRF of about 40 kN/m² a new retaining structure, may well be appropriate. If a basement is to be included within the scheme, then a

contiguous bored pile wall may be the most technically and cost-effective method to adopt. That wall can accommodate a 2-3m deep basement, and may need to be designed for an HRF in the range 150 – 200 kN/m².

At this stage it would be appropriate to issue a copy of this report to an experienced bored piling contractor to estimate the size of bored piles required, together with the appropriate reinforcement. That will enable realistic costings to be prepared for both the 'no basement' and 'basement' options so that appropriate decisions can be reached.'

The report therefore commented on both a basement and non-basement option but concluded that the most appropriate solution would only be apparent following further assessment of the ground conditions. Following this assessment and the requirements of the Applicant's daughter the option of basement floorspace was taken forward as this provided the required living space and a suitable response to the soil's qualities.

The Applicants' intention when embarking on the construction works was to construct the new dwelling as per the approved planning permission without the basement. However, during the groundwork and foundations phase of the build, advice from a structural engineer was to provide a basement as a part of the foundations of the build.

The addition of the basement storey was therefore a practical solution in response to the issues encountered during the construction of the dwelling. Paragraph 124 of the Framework states; 'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions'. (Paragraph 124, Framework).

The addition of the basement storey represents an effective use of the land with no significant adverse environmental impacts whilst providing the applicant with a healthy living environment that responds to their specific disability needs.

Main Issue 4: Whether the proposed terrace/decking area has an acceptable impact on adjoining neighbours.

The previous (now demolished) dwelling had a large area of decking connecting the house at the side and back down to the garden and therefore the inclusion of a raised deck to the new property is simply recreating the situation that existed prior to the redevelopment of the property. This is evidenced in Figure 2 below which demonstrates a directly comparable extent of decked area.

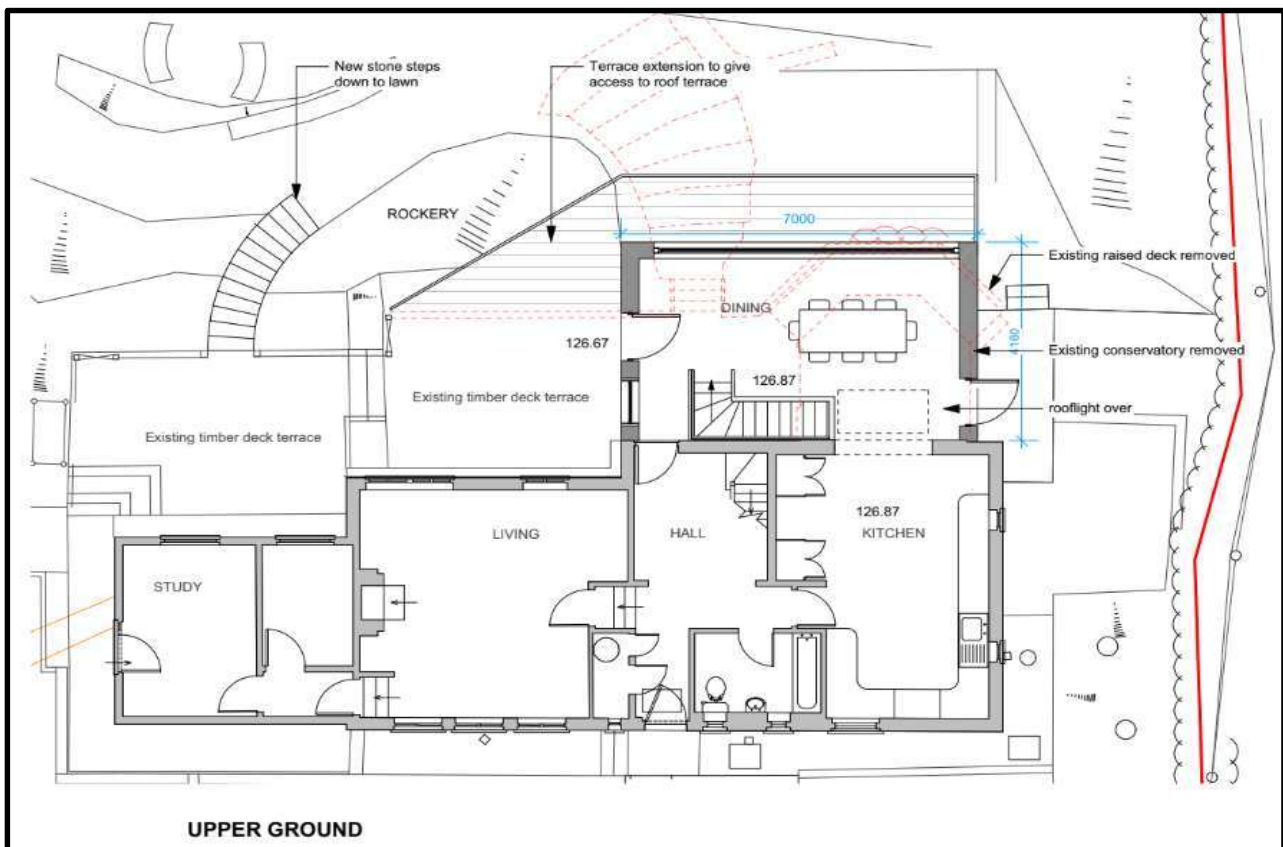


Figure 2: Plans Demonstrating Existing Timber Deck under Approval 16/05386/FUL

The new property and the adjacent properties either side are set within substantial plots with generous separation distances between the properties and intervening, well-established boundary treatments. There is therefore a separation distance between the proposed raised deck and the neighbouring house and garden. This, coupled with the orientation of the neighbouring properties either side ensure that the decked area is set back behind the rear building line of the property to the south west and angled away and largely behind the property to the north east.

Notwithstanding this, a privacy screen is now proposed to the south west elevation to ensure that there is no significant detrimental impact on the amenity of the adjoining property.

Main Issue 5: Whether there are other relevant material considerations to weigh in the favour of approval in the planning balance.

The Council cannot demonstrate a five year supply of housing land. The Framework makes clear that one of the objectives of the Government is to significantly boost the supply of housing.

The site is previously developed land and constitutes 'Grey Belt' in a sustainable location and the proposed development would be making an efficient use of the land.

The scheme would provide a small boost to housing supply, on an infill site, which is anticipated within the Development Plan and national policy.

The proposals provide specialised accommodation to meet the needs of the Applicants' disabled daughter.

There would be social and economic benefits in subsequent occupation.

There is a clear benefit in this instance in regards to sustainability is the fact that the proposals re-use an existing building. This allows for embodied carbon from construction to be retained.

The cumulative benefits afford considerable weight in favour of approval beyond the fact that the proposals accord with the Development Plan and revised Framework when read as a whole.

As set out above, the proposals achieve the three dimensions of sustainable development and result in significant social, economic and environmental benefits which are considered to carry further substantial weight in favour of the proposals.

Accordingly, the Applicants respectfully request that the LPA support the pre-application enquiry and allow the Applicants to proceed with a full planning application to regularise the development.

Conclusion

On balance, it is not considered that the partially exposed basement level is contrary to the aims and purposes of the Green Belt. The revised Framework provides an enabling policy context for the dwelling on what is considered to be 'Grey Belt' land.

The entire removal of the basement storey from forming part of the residential living area would negatively impact the living environment of the occupant whilst making no discernible visual or environmental enhancement to the dwelling or its surroundings. The amount of basement level floorspace which is unnecessary has been excluded from the proposal and will be reverted to a unused void space below the ground floor level – which is not abnormal for a dwelling which is located on sloping land.

Furthermore, as discussed above, there was a need for structural changes during construction to allow for stability as well as provide for quality of life for the Applicants' disabled daughter.

The addition of a raised deck does not create an unacceptable impact on the amenity of neighbouring properties and has been adequately mitigated through the provision of a privacy screen.

It is considered, as set out in this supporting statement, that there is sufficient planning merit to grant planning consent to regularise the planning position with respect to the new dwelling with the partially exposed basement and raised deck.



Mark Heppenstall <mark@sutherlandpls.com>

Re: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

1 message

Mark Heppenstall <mark@sutherlandpls.com>
To: "Fox, Rose" <Rose.Fox@wiltshire.gov.uk>
Cc: Jessica Lomax <admin@sutherlandpls.com>

22 April 2026 at 11:48

Hi Rose,

Further to my email below, please find attached an amended combined proposed plans drawing which shows a reduction in the amount of raised decking to the rear of the dwelling and additional privacy screens.

Please do not hesitate to contact me if I can be of further assistance.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

**SUTHERLAND PROPERTY
& LEGAL SERVICES LTD**



Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983

Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Wed, 22 Apr 2026 at 09:06, Mark Heppenstall <mark@sutherlandpls.com> wrote:

Hi Rose,

The applicants have approved this, and I am waiting for the amended plans from the architect. I will chase him now before I go out on site.

Yes, I agree that it would be good to get the decision notice issued sooner rather than later if we are able to. The extension of time is hereby agreed.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

**SUTHERLAND PROPERTY
& LEGAL SERVICES LTD**



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Plymouth,
PL4 0ST

Office: 01752 403983

Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Tue, 21 Apr 2026 at 19:34, Fox, Rose <Rose.Fox@wiltshire.gov.uk> wrote:

Hi Mark,

How have you got on with this? Could we agree an extension of time until 15/05/26? After this date I have two weeks of annual leave so I would like to aim to get the decision out before this date if possible.

Kind regards,

Rose

From: Fox, Rose

Sent: 25 March 2026 15:17

To: 'Mark Heppenstall' <mark@sutherlandpls.com>

Cc: Jessica Lomax <admin@sutherlandpls.com>

Subject: RE: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

Hi Mark,

Thank you - yes I think this is worth exploring as an option.

Kind regards,

Rose

From: Mark Heppenstall <mark@sutherlandpls.com>

Sent: 23 March 2026 10:13

To: Fox, Rose <Rose.Fox@wiltshire.gov.uk>

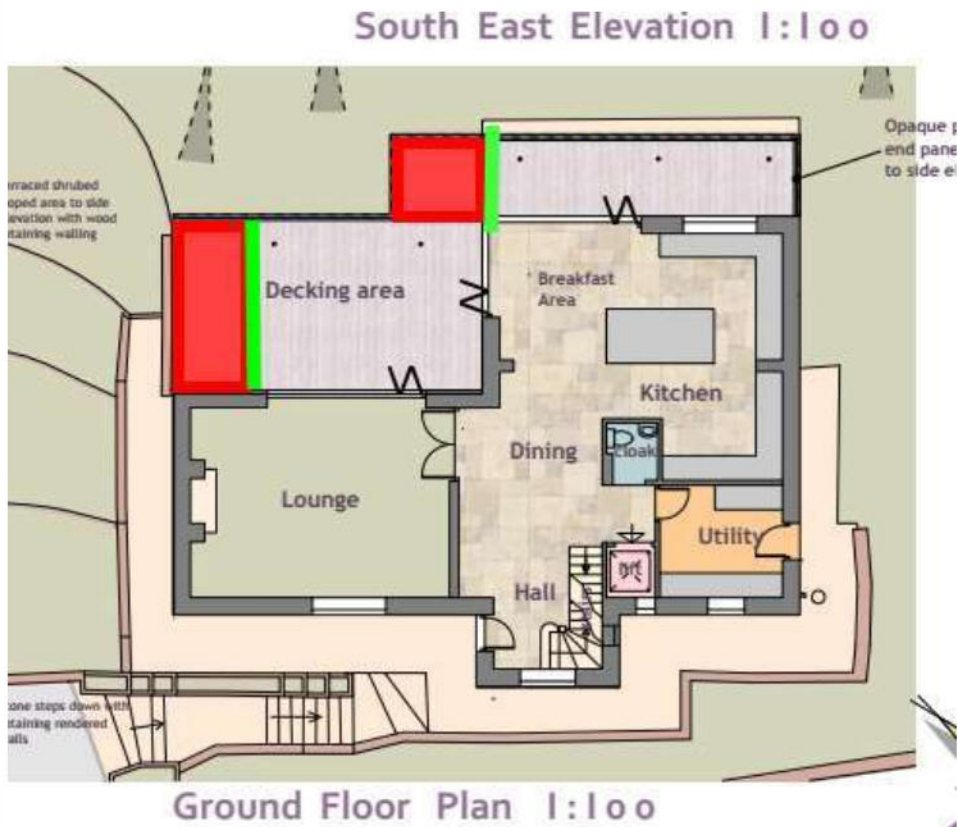
Cc: Jessica Lomax <admin@sutherlandpls.com>

Subject: Re: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

Hi Rose,

Thank you for your feedback. I have pasted an image below - the red areas are suggested as being the areas of the existing decking to be removed and the green lines denote additional privacy screens which will be erected to eliminate outward views from the reduced decked area towards the neighbouring properties on each side. I

appreciate that you cannot give me a definitive answer, but it would be useful to get a steer from you on these proposed revisions before I float them to the client.



Yes, the extension of time is hereby agreed.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983



Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Fri, 20 Mar 2026 at 13:06, Fox, Rose <Rose.Fox@wiltshire.gov.uk> wrote:

Hi Mark,

Thank you - yes, I agree that something between the two options is likely to be most appropriate. Additional screening, along with some reduction in the overall size of the decking I expect would be positively received.

In the meantime could we please also agree an extension of time until 03/04/26?

Kind regards,

Rose

From: Mark Heppenstall <mark@sutherlandpls.com>

Sent: 19 March 2026 10:21

To: Fox, Rose <Rose.Fox@wiltshire.gov.uk>

Cc: Jessica Lomax <admin@sutherlandpls.com>

Subject: Re: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

Hi Rose,

Thank you for your email. Yes I would like to amend the proposal to address the privacy issue that you have identified.

Before I go back to the applicant to advise what amendments need to be made I thought that it would be a good idea to contact you to inquire what amendments you would consider necessary to alleviate the privacy issue. Does it require something simple like the addition of a similar privacy screen to the southwest elevation of the decking area to eliminate outward views towards both of the neighbouring dwellings? Or would it require a more extreme solution where the raised decking area is removed completely?

I'm assuming that they answer may be somewhere in the middle of these two examples?

Kind regards

Mark

Mark Heppenstall - Planning Consultant

Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983

Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Wed, 18 Mar 2026 at 15:17, Fox, Rose <Rose.Fox@wiltshire.gov.uk> wrote:

Hi Mark,

Thank you for your patience. I have discussed the application with my manager.

I wanted to raise that the privacy concerns have not been resolved. Although an amendment has been made to include a privacy screen for the neighbour at Kestrels, the new building and the size of the raised decking area have been moved further towards the rear of the plot, which continues to result in overlooking issues and sense of overlooking for neighbouring properties.

Could you please confirm whether you would want to revise the raised decking area to address these impacts?

Kind regards,

Rose

From: Mark Heppenstall <mark@sutherlandpls.com>

Sent: 09 March 2026 10:42

To: Fox, Rose <Rose.Fox@wiltshire.gov.uk>

Cc: Pim de Witte [REDACTED] Jessica Lomax <admin@sutherlandpls.com>

Subject: Re: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

Hi Rose,

Sure, no problem. The additional short extension of time is hereby agreed.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

[Redacted]

Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983

[Redacted]

Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Thu, 5 Mar 2026 at 10:49, Fox, Rose <Rose.Fox@wiltshire.gov.uk> wrote:

Hi Mark,

Thank you and apologies for the delay. I'm planning to discuss this application with my team leader but I can't get a meeting until Tuesday or Wednesday next week. We might need to extend a little further if that's possible - perhaps until 20th?

Kind regards,

Rose

From: Mark Heppenstall <mark@sutherlandpls.com>

Sent: 20 February 2026 08:53

To: Fox, Rose <Rose.Fox@wiltshire.gov.uk>

Cc: Pim de Witte [Redacted] Jessica Lomax <admin@sutherlandpls.com>

Subject: Re: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

You don't often get email from mark@sutherlandpls.com. [Learn why this is important](#)

Hi Rose,

Sure, no problem. I'm ex LPA myself so I know what it's like to work through a backlog!

The proposed extension of time is hereby agreed. Please do not hesitate to contact me if you need anything further from me.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

[Redacted]

Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983

[Redacted]

Please note that my normal working days are Monday to Friday mornings (09:00 - 13:00) only.

On Thu, 19 Feb 2026 at 14:58, Fox, Rose <Rose.Fox@wiltshire.gov.uk> wrote:

Hi Mark

Apologies for the delay in coming back to you. I have been working through a backlog of applications, but I am making progress and I am aiming to review this application and start writing the officers report next week. I will reply to your email in more detail then, but in the meantime can we please get an extension of time on this application for a few additional weeks until 13th March?

Kind regards,

Rose

From: Mark Heppenstall <mark@sutherlandpls.com>

Sent: 05 February 2026 10:08

To: Fox, Rose <Rose.Fox@wiltshire.gov.uk>

Cc: Pim de Witte [REDACTED] Jessica Lomax <admin@sutherlandpls.com>

Subject: PL/2025/09915 - Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD

You don't often get email from mark@sutherlandpls.com. [Learn why this is important](#)

Hi Rose,

I hope that this email finds you well.

I have been reviewing the progress of the application on the council's website and I note that comments are starting to be received in respect of the proposal.

Drainage Team response - no objection subject to conditions. The Drainage Team has requested the submission of additional information - can you please let me know your preference for when this is to be submitted? If it would be preferable for you to receive this information pre-decision then please let me know and I will arrange for it to be provided in an appropriate time frame.

Neighbour response (D Johns) - having reviewed this one, it is apparent that loss of privacy is a concern to this neighbour. Are you able to confirm to me if you also have any concerns regarding loss of privacy? If so, I would be happy to work with you to come up with solutions to address any potential loss of privacy concerns. I also note that this neighbour has raised concerns regarding the drainage details which I have submitted - I have referred this to my drainage consultant for assessment/comments. With regard to the neighbour comments concerning future use of the basement space, the application explicitly states that the void area will not be retained as habitable space in the event of planning permission being granted and I am satisfied that this can be controlled by means of a condition prohibiting the use of this area of the building as habitable space in the event of planning permission being granted.

I do not know if you are aware of this or not, but an enforcement notice was served on Monday in respect of the unauthorised dwelling. The notice does not become effective until 2 August 2026 which I believe will allow us adequate time for this application to be decided. However, as the notice requires complete demolition of the dwelling, it is imperative that I am made aware of any issues with this application so that I am able to address them within this timescale. If there is anything that concerns you about the application or if there is anything further that you need from me/the applicant then please do not hesitate to contact me and I will endeavour to deal with them ASAP.

Kind regards

Mark

Mark Heppenstall - Planning Consultant

[REDACTED]

Unit 6 Faraday Mill Business Park,
Prince Rock,
Plymouth,
PL4 0ST

Office: 01752 403983

[REDACTED]

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 **LITTLE ORCHARD REVISED HOUSE april 2026.pdf**
954K

Our Ref : JRP/cj/C4714
Date : 29th July 2026

Sutherland Planning Ltd
Town & Country Planning Consultants
PO Box 149
Oakhampton
Devon
EX20 9BU

Dear Sir

Re : Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, Wiltshire

The Foundation Piling Group

**Registered & Head Office
NORTH WEST**
Ifton Industrial Estate, St Martins, Oswestry,
Shropshire SY11 3DA
T: 01691 773150

**Estimating & Design Office
SOUTH WEST**
57b High Street, Thornbury, Bristol
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SOUTH EAST
Chalfont St Peter, Bucks
T: 01753 884884 / 0780 385 7700

EASTERN OFFICE
Thetford, Norfolk
T: 01502 568599 / 07980 792233

SOUTH OFFICE
Farnham, Surrey

WELSH OFFICE
Brunel House, Cardiff

I have been asked by Sutherland Planning Ltd (SPL), to make a statement in connection with a planning appeal in connection with the above property. In particular, SPL has asked to me to verify that my company, Foundation Piling Ltd., were commissioned to undertake the detailed foundation design assessment work, based upon the Geotechnical report produced by Mr Gareth Thomas of Integrale Ltd. SPL has also asked me to verify the final design approach taken to allow the replacement residential property to be built as approved i.e. a two-storey property.

My name is John Peterson. I am Chairman and Technical Director of Foundation Piling Ltd. I have a BSc (Hons) focused in Civil Engineering from Manchester University. I have been a part-time lecturer for final year Geotechnics course at University of South Wales and a Contributing lecturer to MSc Geotechnical Engineering Course Birmingham University. I am a Chartered Engineer, and a Fellow of both the Institution of Civil Engineers and the Geological Society. I have led numerous PhD projects at the University for the past 20 years.

I can confirm that we undertook a detailed foundation design in conjunction with Dr Gareth Thomas of Integrale, following an assessment of the ground conditions at the subject site. The geology of the subject site is extremely unstable made up of fullers earth with an underlying lateral slip plate. To design a suitable foundation was technically challenging. Not only was the ground unstable with evidence of the original dwelling, and others nearby having slipped, but was made more difficult by the significant slope of the site and a significant amount of groundwater flowing from above the site down the slope in a north westerly direction.

Our analysis led to a need to design a foundation that would provide a stable foundation that would endure for the long term. The solution revolved around the need to:

1. Create a retaining wall on the southeast side of the property so that when construction started, that would be strong enough to prevent the land and road above the property slipping towards the subject site;
2. Remove as much weight from the ground beneath the property to create a stable platform on which to construct the property;
3. To design a piling system that would reinforce the above; and
4. Help divert the flow of water from the southeast around rather than under the property, to reduce slippage risk.

Based on my experience and the nature of the geology and ground conditions of the subject site, the most appropriate foundation design solution was to build a box or basement structure coupled with a foundation design that both supported the retaining wall and the replacement property foundations. The box structure, constructed to a depth of approximately 3.0m, removed significant weight from the underlying unstable ground conditions, reducing risk of slippage, but also helped move ground water away from the property.

This conclusion is consistent with the preliminary Geotechnical report produced by Integrale and provided the most cost-effective solution for the client.

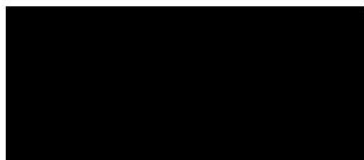
Signed 

Print.....John Peterson.....

Dated...29th July 2026.....

We trust this assists.

Yours faithfully
For and on behalf of
FOUNDATION PILING LIMITED



John Peterson BSc(Hons) CEng FICE FGS
Technical Director
Bristol Office

enquiries@foundation-piling.co.uk

Mark Gunner
Oakhills Construction Ltd
1, Long Street,
Tetbury,
Gloucestershire,
GL8 8AA

GGT/Q1902-15

18th April 2019

Dear Mark,

**PRELIMINARY GEOTECHNICAL SLOPE STABILITY ASSESSMENT,
LITTLE ORCHARD, LOWER KINGSDOWN, CORSHAM, SN13 8 BD.**

Following your recent instructions, we are pleased to report as follows:

1.0 INTRODUCTION

Mr and Mrs Pim de Witte purchased Little Orchard in early 2018. They have recently had the dormer bungalow demolished and they are now proposing to have a new property constructed over a similar plan area. Oakhills Construction Ltd are their contractors for the new-build. Charles Manning is the project architect.

Intégrale Ltd are commissioned to complete a Preliminary Geotechnical Slope Stability Assessment, to be followed by a suitable scope of intrusive ground investigation. The strategy being adopted was outlined in notes prepared following a site visit on 1 March.

This initial report describes the main features of the site and the published geology, summarises other nearby ground investigations and outlines a strategy for dealing with the potential site instability aspects. It anticipates the depth to the basal slip surface of ancient Landslip and it reports on an initial parametric slope stability study, before concluding on the likely current Factor of Safety against instability (FoS). It also indicates the FoS required for long-term stability following construction of the new house, and discusses appropriate foundations and retaining works for two alternative schemes, namely either including a basement, or not including a basement.

2.0 THE SITE

The property is about 6.5 km east, north-east of Bath City Centre; it has a National Ordnance Survey grid reference of

The site is approximately 65 m long, down from the east to west, and typically 25 m wide. The former house was demolished in February 2019, and the levelled plot where it was located the south-east end, is about 20 m by 10 m in plan.

It is bounded upslope to the south-east by the access road, the levelled plot being about 2.5 m lower. In between are low masonry stone and blockwork retaining walls. Temporary access down onto the proposed building plot, is via a ramp constructed at the southern corner. The new lower formation level as locally, been excavated, below the footing of the retaining wall. Due south of the site, is a split-level contemporary house, whilst to the north-east another new-build house is under construction. The recently demolished house on that adjacent site was known as Lawton, and its' boundary with Little Orchard includes a leylandii conifer hedge.

A new earth bank has been constructed- out and downslope from the levelled plot on which Little Orchard previously sat. The architect's working drawings currently indicate no other significant changes to the rear garden downslope.

Further details can be seen on the site photographs appended.

Mark Lovell, a structural engineer, visited the property in early February, before it was demolished. He spoke to the writer and confirmed that there had been significant cracking within both the superstructure as well as the surrounding terraces and steps; he believed the structural distress to be due mainly to the dormer bungalow having been located on unstable Fullers' Earth Landslip, on inadequate foundations. Service trenches nearby may also have been located inappropriately, which may have worsened the stability.

3.0 PUBLISHED GEOLOGY

According to the most recent BGS geology map (Sheet 265, Bath) this site is located on Ancient Landslip, apparently derived predominantly from the Fullers' Earth Formation. This is predominantly a sequence of over-consolidated clays and mudstones with subordinate limestone bands. Directly upslope on the hillside, is 'cambered' Great Oolite Limestone.

Previously landslipped Fullers' Earth strata in this district are notorious. Structures built on conventional, unreinforced shallow footings can exhibit significant structural distress and modern day re-activations of slope instability do occur. Many new houses are now being supported on deep piled foundations, taken down through the Basal Slip Surface of the ancient Landslip and designed to accommodate lateral earth pressure. It is important to accurately assess the site specific depth of landslip, and the lateral loading due to unstable strata upslope.

4.0 OUTLINE HISTORY

The Tythe map of 1840 shows the site as predominantly rough open ground, with a few small cottages off to the east, and somewhat more distant to the west. That did not change on the 1900, 1921 and 1923 map editions. It seems likely that the previous house, believed to have dated to the 1940s or 1950s, may well have been the first development on the site.

Downslope, about 100 – 125 m from Little Orchard is a bulge of land at and beyond the field boundary. This is the toe of an old mudslide and it seems likely that the site of the house was within the influence of that mudsliding; the topography of the mudslide toe appears quite fresh and therefore it may be (a reactivation of movement) of historic age rather than being 'ancient'.

5.0 NEARBY GROUND INVESTIGATIONS

5.1 By Integrale

An investigation and slope stability assessment were completed at Tanglewood, c. 25 m south, in 2001. Investigations included mechanically dug trial pits and window sample boreholes. That site straddles the boundary between the foundered Great Oolite Limestone and landslipped Fullers' Earth. The BGS geology map shows that site being at the south-west end of the Corsham Fault, and this may have enhanced groundwater flow worsening stability. These investigations were also used in a later assessment at Hornbeams, a neighbouring bungalow (c. 50 m SW of Little Orchard) in 2018.

An interpretive geological section suggests 5-6m of yellowish brown, soft to firm/firm, silty sandy Clay with some limestone gravel and cobbles, forming the ancient Fullers' Earth Landslip. The underlying Insitu Fullers' Earth was firm to stiff/stiff/very stiff, dark grey, silty Clay. Groundwater seepage was encountered at c.2-3m depth. Laboratory classification tests revealed the clay soils to be of High Plasticity. Sulphate concentrations were not raised and special measures were not required to protect buried concrete.

An investigation and slope stability assessment was completed at Glen Echo, c. 75 m north-east in 1991. Investigations again included mechanically dug trial pits and 'Marlow Mole' auger and rotary boreholes, in a similar geological location to the site described above. Directly downslope of landslipped blocks of limestone, the brown-grey, Fullers' Earth Landslip was proven to be 6-7m deep, with the Insitu strata beneath being stiff/very stiff grey Clay with thin beds of limestone. The deepest borehole was taken to c.16m depth.

Investigations and slope stability analyses were undertaken at The Firs and Kingsdown Livery Stables between 2000 – 2002, typically 100 – 150 m north-east of Little Orchard. Investigations at 6, The Firs, utilised window sample boreholes. The boreholes in the upslope area were terminated between 2 – 3.5 m on limestone bedrock. A greater thickness of c.5m of Landslipped Fullers' Earth was anticipated in the lower area.

In 2001, Integrale completed slope analyses for the Livery Stables, following examination of the trial pits, because there was a long history of ground movements (worsened in the winter of 2000/2001) and part of the stables were demolished following severe structural distress. We oversaw a program of slope stability drainage installation to reduce the risk of future damaging slippage.

5.2 By Others

A ground investigation and geotechnical assessment were completed for the neighbouring property Lawton, in mid 2017. Integrale were provided with a copy of that report by Oakhills Construction. 4 dynamic sample boreholes were advanced to c. 5.5 m depth, and 2 mechanically dug trial pits to c. 4m.

The investigation proved between 0.5 – 3 m of Made Ground (typically brown sandy clay overlying sandy, clayey gravel), overlying soft becoming firm/stiff, yellow-grey-brown sandy silty Clay of the Fullers' Earth. The investigation does not appear to demarcate the depth to the basal slip surface, due to the ancient instability.

The geotechnical advisers concluded that the site is unstable and that special stability works are required. However, they said that conventional foundations may be suitable, founding into the FE Clay beneath the Made Ground.

Since that investigation does not draw a distinction between previously landslipped strata, and underlying insitu ground, it is necessary to make a judgement of whether it has proven undisturbed strata at or above 5.5 m depth. Based on the strata descriptions provided, and the results of SPT testing, Integrale tentatively suggest that the basal slip surface could be at typically 4-5m depth.

5.3 Likely Depth to Basal Slip Surface at Little Orchard

In line with the above, it seems quite likely that the basal slip surface could be at a depth of 5m to 7m, beneath the proposed building plot. That is based on the inferred geological sections established at Tanglewood, and at Glen Echo. That is an adequate judgement on which to initiate preliminary slope stability analysis.

6.0 PRELIMINARY SLOPE STABILITY ASSESSMENT

6.1 General

It is appropriate to consider both 'Global' and 'Local' Stability. From the previous Integrale investigations we have boreholes and trial pit information nearby from both the Glen Echo and Tanglewood/Hornbeams sites. Here the anticipated superficial geology and ground conditions are likely to be very similar to Little Orchard.

Tentative up and down slope Geological Cross Sections have been prepared for each of those two sites. On each of them we have indicated the most likely comparable, offset location of the proposed Little Orchard Building Plot. It can be seen that the anticipated ground conditions are very similar. We have also returned to the Little Orchard site and with simple surveying techniques (taped lengths and slope inclinations using an inclinometer) we have established a site specific section for more detailed analysis. As well as interrogating likely

FoS, for a variety of slip geometries, we have computed the likely required Horizontal Restoring Forces (HRF) for 'no basement' and basement depths of 2 m, 3 m, 4 m and 5 m.

Appended to this report are the sections we have analysed, the typical sliding modes we have considered (these having been based on similar slope failures we have seen on other nearby Bath hillslopes and other previous projects), and also included are the tabulated results of FoS computed for the analyses completed.

6.2 Effective Shear Strength Parameters

From previous Integrale projects, the published technical literature (e.g. Cripps and Taylor, 1981, Engineering Properties of British Mudrocks, QJEG) and other documented case histories, we would expect the 'local residual effective shear strength' along existing slip surfaces to generally be in the range 12.5 – 17.5°. We have initially considered 12.5°, 15° and 17.5°, before fine tuning the value in our back analysis. We have assumed residual cohesion as zero (as is normal practice).

By inspection, it has been tentatively concluded that the 'local residual effective shear strength' for the Little Orchard building plot, is likely to be about 16°.

6.3 Modes of Failure

For the Glen Echo section, three circular failures are considered, encompassing the site (c. 15 m in extent), and extending downslope between 25 – 40 m, referenced Slips A, B and C, respectively. A more extensive 75 m long noncircular slip, referenced Slip D, extending both upslope and downslope, has also been analysed.

For the Hornbeams/Tanglewood site, two other similar, shallow circular failures have been considered and referenced Slip BB and Slip DD.

6.4 Global Stability

Stability computer runs, utilising the software developed and offered under licence by OASYS Ltd, and known as SLOPE, have been interrogated for the three values of residual internal friction described above, without groundwater ('Dry') and with groundwater at 2 m depth, and for each of the slip modes, described. The tabulated Factors of Safety Against Instability are appended to this report.

For both the Glen Echo and Hornbeams sections, it was tentatively concluded that local residual effective shear strength of between 15° and 17.5°, is likely to apply. A value of c. 16° has been adopted for the Little Orchard building plot, for this preliminary slope stability assessment.

Four supplementary slip geometries have been investigated, extending upslope from the building plot. Slip E extends 30 m upslope, and 20 m downslope of the building plot, with the basal slip at (between 4-8m, averaging) 6 m depth. A similar, but less extensive Slip F, is 30 m remote upslope, but daylights at the foot of the retaining wall supporting the upslope plot boundary, (between 2-4m, averaging) typically to 3 m depth. Slips G and H are shallow circular failures, about 2-4m deep, also daylighting at the foot of that retaining wall, and extending 30 m and 15 m upslope of it, respectively. By inspection, Slip H is the most critical, with computed FoS of about unity, particularly when water pressures are introduced. It was noted that there is evidence of a tension crack in the hard surface of the track, directly upslope of the site. That tends to support the hypothesis that Slip H is the most critical potential failure.

6.5 Horizontal Restoring Force

We extended the above analyses to judge what HRF would be required to predict a Factor of Safety Against Instability of 1.3. This is a 'generic' value indicative of stability to be achieved for design purposes, in cohesive materials. A higher value of 1.5 is usually adopted for granular materials.

The minimum HRF required would be about 40 kN/m², if the existing plot surface were to be the development level.

However, it is possible that the client may decide to pursue a scheme involving a basement. Consequently, we have considered a range of reduced elevations between 1 m and 5 m below current site level. For a 1 m, 2m,

3m, 4m and 5m reduced level, we have computed HRF's of c. 75 kN/m², 125 kN/m², 200 kN/m², 275 kN/m² and 375 kN/m², respectively.

Based on past experience, Intégrale infer that a basement deeper than about c. 3 m, may well not be cost-effective.

7.0 GENERAL DISCUSSION.

It seems likely that the depth to the Basal Slip Surface, below the Little Orchard building plot could be 5-7m. The Fullers' Earth Landslip materials are likely to include soft to firm, yellow and brown highly plastic Clay, with varying proportions of limestone gravel and cobbles (with occasional limestone boulders). It may be that Window Sampling boreholes could 'hang-up' on limestone obstructions within the Landslip, and that drilling technique has no facility for boring deeper into harder materials. Consequently, Intégrale believe that conventional Percussion Boring, with a Shell and Auger rig, is to be the preferred drilling technique. (We have spoken to an experienced driller who says he can manoeuvre is rig up and down the steep temporary ramp, to gain access onto the levelled site). This method of boring has the facility of heavy duty chiselling to breakthrough some obstructions, and to assist deeper boring into weathered, more rocky strata. It will also be significantly less expensive than conventional rotary core drilling.

The main findings from our Preliminary Slope Stability Assessment are as follows:

1. The Local Residual Effective Shear Strength, for the Little Orchard building plot, is likely to be about 16°.
2. The most critical failure modes are relatively restricted circular or noncircular 'slumps' daylighting either at the foot of the current retaining wall, or at the base of whichever reduced elevation basement slab level is chosen. Those slumps are unlikely to extend upslope more than about 15 m, and 5 m may be more realistic.
3. If no basement is to be included in the scheme, the new foundations will need to extend through the Landslip, and into the undisturbed strata beneath. Consequently, some form of piled foundation will be appropriate. From past experience, bored piling will be preferred to driven. Bored piles should be taken an adequate depth below the basal landslip surface. Depending on the overall scheme of piling adopted, the piles could extend almost twice the depth of the Landslip thickness. 10-15m piles could be appropriate, unless supplementary raking piles are included in the scheme.

It will be appropriate to sink investigation borings at a minimum of two locations, to a depth of 10 – 15 m.

For a scheme without a basement, and HRF of about 40 kN/m² a new retaining structure, may well be appropriate.

4. If a basement is to be included within the scheme, then a contiguous bored pile wall may be the most technically and cost-effective method to adopt. That wall can accommodate a 2-3m deep basement, and may need to be designed for an HRF in the range 150 – 200 kN/m².

The intrusive ground investigation is due to commence in a few weeks time. At this stage it would be appropriate to issue a copy of this report to an experienced bored piling contractor to estimate the size of bored piles required, together with the appropriate reinforcement. That will enable realistic costings to be prepared for both the 'no basement' and 'basement' options so that appropriate decisions can be reached.

END OF LETTER REPORT

We hope that the above and the attached are suitable for your present purposes. I will be writing to you separately to provide a detailed breakdown of the drilling, testing and technical supervision/reporting costs for the intrusive investigation. Please do not hesitate to give me a call if you have any queries.

Yours sincerely

Gareth Thomas
Managing Director.

Enclosures: Sections for Slope Analysis
Tabulated Results of Slope Analyses.

Geotechnical • Engineering • Geoenvironmental • Consultancy
Understanding Ground Conditions

9287 Little Orchard, Lower Kingsdown Road

Re: Summary of Preliminary Slope Stability Analyses

18th April 2019

GLOBAL STABILITY

Little Orchard & Glen Echo Section

	12.5°		15°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m	Dry	GW at 2m
Slip A	0.90	0.60	1.09	0.75	1.30	0.90
Slip B	1.05	0.75	1.25	0.95	1.50	1.10
Slip C	1.25	1.05	1.50	1.25	1.75	1.50
Slip D	0.90	0.55	1.10	0.65	1.30	0.75

Little Orchard & Hornbeam Section

	12.5°		15°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m	Dry	GW at 2m
Slip BB	0.95	0.80	1.15	0.95	1.35	1.10
Slip DD	0.90	0.65	1.10	0.80	1.30	0.95

LOCAL STABILITY

Case A – As Present

	12.5°		15°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m	Dry	GW at 2m
Slip E	0.9	0.65	1.15	0.75	1.35	0.9
Slip F	0.8	0.65	0.95	0.8	1.15	0.95
Slip G	0.8	0.7	0.95	0.85	1.2	0.98
Slip H	0.9	0.85	1.05	1.0	1.2	1.15

	16°	
	Dry	GW at 2m
5m Upslope	0.55	0.55
10m Upslope	0.9	0.9
15m Upslope	1.2	1.15
HRF $\geq$ 1.3 kN/m ²	35-40	35-40

Results shown in tables above are Factors of Safety Against Instability (FoS)

Case B – With a 5m Basement

	12.5°		15°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m	Dry	GW at 2m
Slip E	0.75	0.45	0.9	0.55	1.05	0.65
Slip F	0.8	0.65	0.95	0.8	1.15	0.95
Slip G	0.8	0.7	0.95	0.85	1.1	0.95
Slip H	0.9	0.85	1.05	1.0	1.2	1.15
Horizontal Restoring Force Required for $FoS \geq 1.3$ kN/m ²	1,050	1,400	700	1,000	350	700

	16°	
	Dry	GW at 2m
5m Upslope	0.4	0.25
10m Upslope	0.45	0.3
15m Upslope	0.75	0.5
HRF ≥ 1.3 kN/m ²	350	400

	16°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m
5m Upslope	1.5	1.7	1.5	1.65
10m Upslope	1.15	1.15	1.15	1.15
15m Upslope	1.45	1.2	1.5	1.25
HRF ≥ 1.15 kN/m ²	320	375	300	360

Results shown in tables above are Factors of Safety Against Instability (FoS)

GEOLOGICAL • GEOTECHNICAL • ENVIRONMENTAL • ENGINEERING

Case B – With a 4-4.5m Basement

	16.5°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m
5m Upslope	0.45	0.35	0.5	0.4
10m Upslope	0.65	0.5	0.7	0.5
15m Upslope	0.85	0.6	0.9	0.65
HRF ≥ 1.15 kN/m ²	215	285	200	265

Case B – With a 3-3.5m Basement

	16°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m
5m Upslope	0.6	0.5	0.65	0.55
10m Upslope	0.75	0.6	0.8	0.65
15m Upslope	1.02	0.7	1.1	0.8
HRF ≥ 1.15 kN/m ²	145	200	125	175

Case B – With a 2-2.5m Basement

	16°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m
5m Upslope	0.75	0.6	0.8	0.7
10m Upslope	0.85	0.65	0.9	0.75
15m Upslope	1.15	0.85	1.25	0.95
HRF ≥ 1.15 kN/m ²	90	125	75	110

Case B – With a 1-1.5m Basement

	16°		17.5°	
	Dry	GW at 2m	Dry	GW at 2m
5m Upslope	0.85	0.75	0.9	0.8
10m Upslope	1.01	0.9	1.1	1.01
15m Upslope	1.15	0.95	1.25	1.05
HRF ≥ 1.15 kN/m ²	50	75	40	50

Results shown in tables above are Factors of Safety Against Instability (FoS)

(Offset)
LITTLE
ORCHARD
Building
Plot.

GLEN ECHO

SLIP D.

SLIP C.

SLIP B.

SLIP A.

MADE UP GROUND.

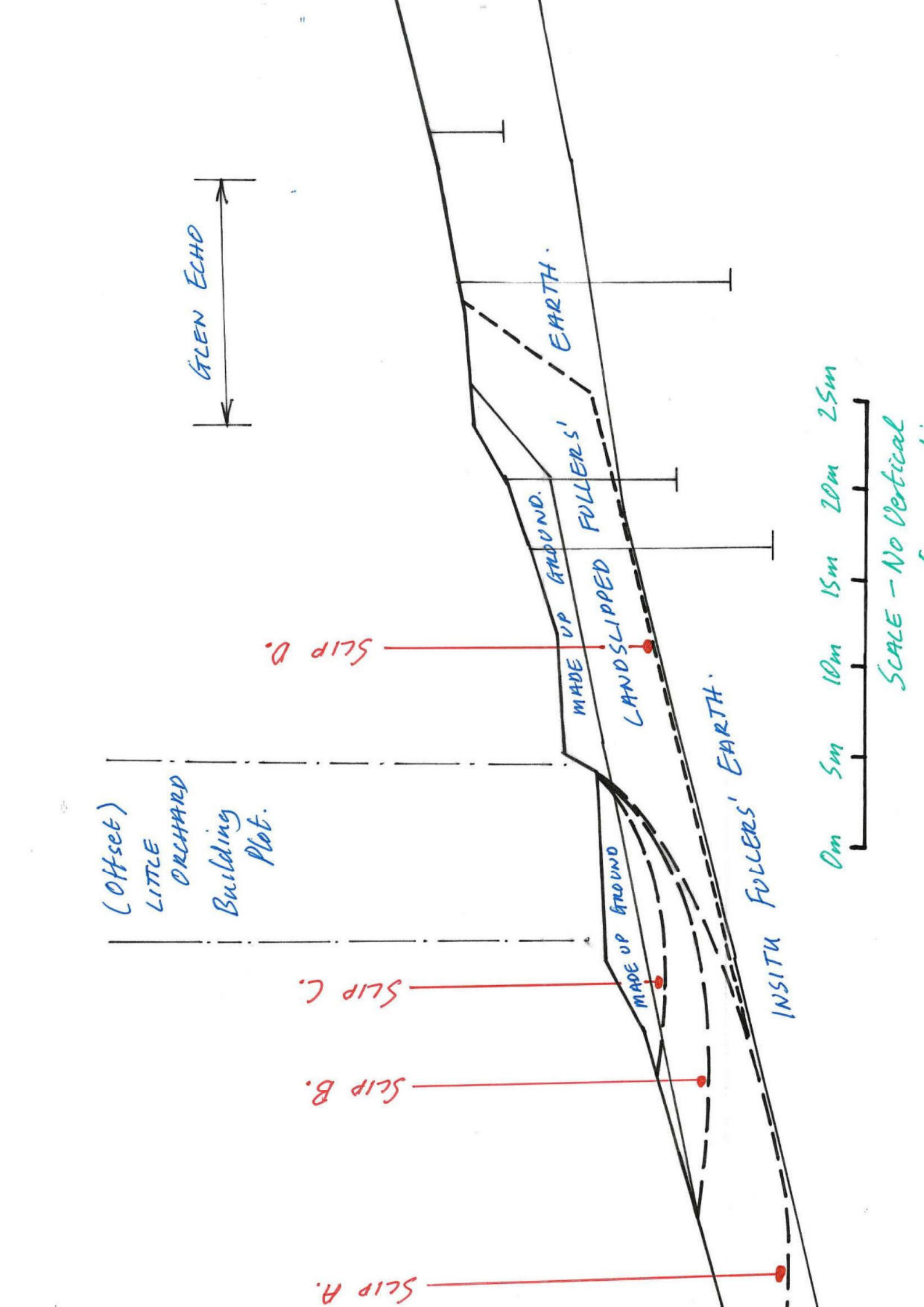
MADE UP GROUND.
LANDSLIPPED
FULLERS' EARTH.

MADE UP GROUND

INSITU FULLERS' EARTH.

0m 5m 10m 15m 20m 25m

SCALE - No Vertical



(offset)

LITTLE

ORCHARD

Building

Plot

HORN BEAMS

/ TANGLEWOOD.

SLIP BD.

SLIP BB.

EARTH.

FULLER'S

Large Limestone
in Landslip

MADE-UP GROUND.

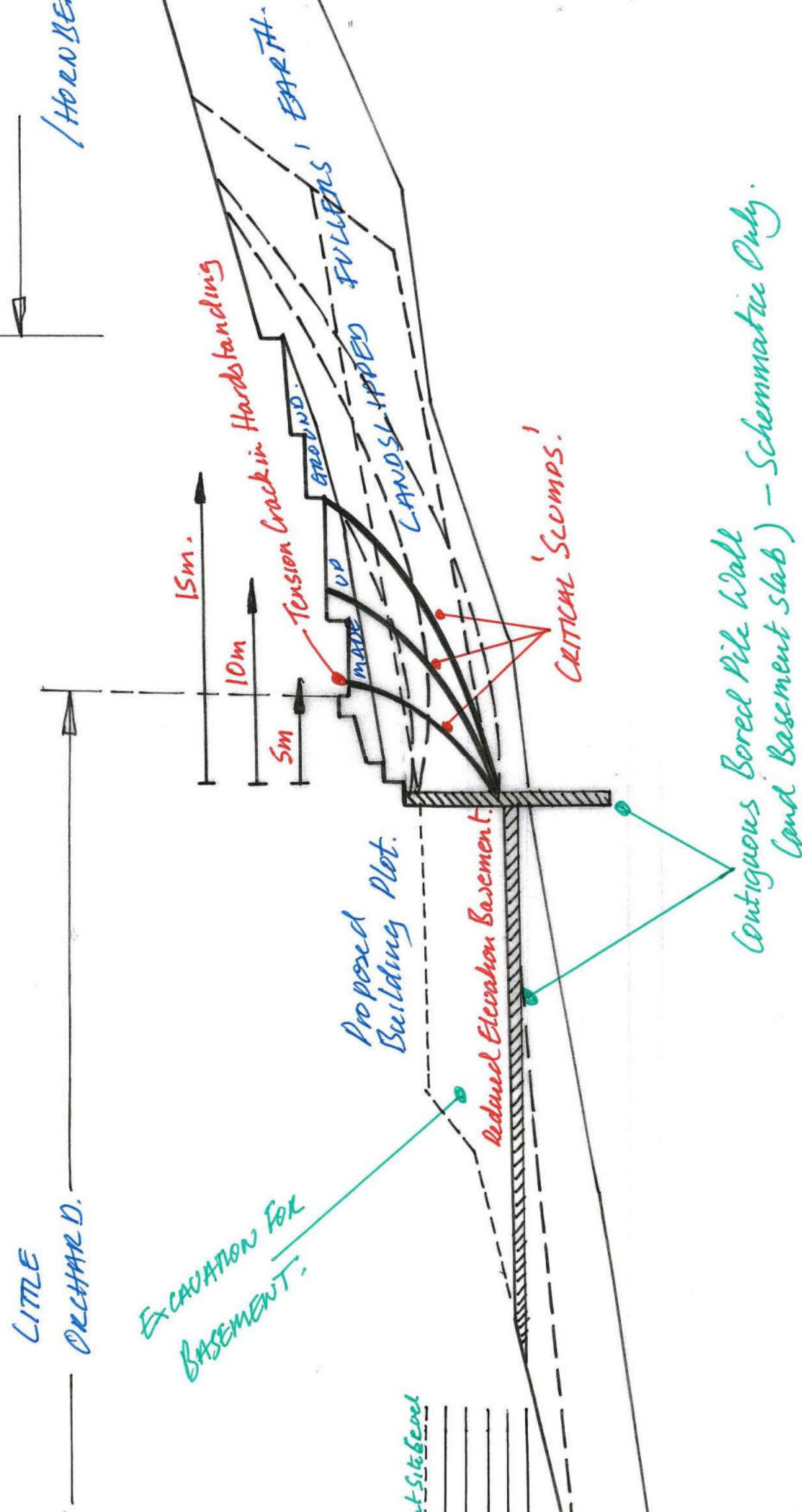
LANDSLIPPED

INSITU FULLER'S EARTH.

Lower
Kingsdown
Road.

MUG

0m 5m 10m 15m 20m 25m



Scale: 1 to 250 (A3 size).

(No subject)

From Mark Gunner [REDACTED]
Date Thu 12/10/2020 8:26 PM
To Pim De Witte

The SAPS have not been taken up, this can be rectified with a payment due also, I am waiting a call back from Energist. Below is the copy of the email from Simon Smith, anything else let me know, Chaz: Forwarded message -----

From: Smith, Simon <Simon.Smith@wiltshire.gov.uk>
Date: Thu, 16 May 2019 at 08:21
Subject: RE: 18/10970/FUL Little Orchard, Lower Kingsdown Road, Kingsdown FOUNDATIONS
To: Charles Manning <chaz.manning2000@gmail.com>

Good morning Charles

Following your email below, I have looked at the permission and the plans and documents to which it relates.

The submission and permission appears to envisage a degree of earthworks; notably, the updated Structural Survey prepared by Mark Lovell Design Engineers (dated Feb 2019), which, inter alia, confirms the existing property is moving down the escarpment and that suitable foundation works will be necessary in the event of reconstruction. Although not shown on the approved plans, I can reasonably infer from the submission that those foundations will be necessarily extensive.

For the above reason, I am confident that the permission granted does reasonably envisage and allow for below ground foundation works to be carried out; the form and nature of those foundations requiring no further permission from the Local Planning Authority. I would advise however, that your client must satisfy themselves that any such below ground works do not alter that above ground development for which planning permission has been granted. In such a circumstance, it is possible that a further planning permission may be required so as to accommodate those above ground changes.

I trust the foregoing is of some use to you. Please do not hesitate to contact me again if you wish for further clarification.

Kind regards.

Si

Simon T Smith BA(Hons) MTP MRTPI
Area Team Leader (North)

Wiltshire Council
Economic Development and Planning
Monkton Park

Chippenham
SN15 1ER

01249 706 633
simon.smith@wiltshire.gov.uk
<http://www.wiltshire.gov.uk/planninganddevelopment.htm>

From: Charles Manning [mailto:chaz.manning2000@gmail.com]
Sent: 08 May 2019 15:01
To: Smith, Simon
Subject: RE: 18/10970/FUL Little Orchard, Lower Kingsdown Road, Kingsdown FOUNDATIONS

Good afternoon Si,

Trust you are well, and I am sure overworked with the staff shortages at the moment.

You may recall the issues we have with the replacement dwelling at Kingsdown Box on the side of an unstable hill that was previously not foreseen.

The bungalow has been demolished but the ground conditions now revealed are concerning as I mentioned, the rear elevation had slipped down the hill with subsidence underneath (recently covered by decking and render by the previous owners).

We have had the subsoil tested with further bore holes being undertaken with results to follow, these can be made available to you if so required..

It appears that in order to stabilise the new structure in conjunction with the existing topography and bad soil a rigid concrete box underground is required under the proposed footprint so the building effectively floats on the soft sub ground.

Therefore as this is below ground level I assume this will not be classed as development as we agreed, and can go ahead as part of the groundworks operation.

Should any neighbours be concerned that something outside the approval is being built then this has been addressed earlier effectively by this email with a response or a letter of comfort that can be produced if so needed.

i look forward to your reply,

Kind regards

Charles
Get [Outlook for iOS](#)

Appendix 13 - contains confidential medical information - to follow, to be submitted separately

**APPLICATION FOR FULL PLANNING PERMISSION
DELEGATED REPORT**

APPLICATION REFERENCE:	PL/2025/09915
APPLICATION TYPE:	Full planning permission
SITE ADDRESS:	Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD
DEVELOPMENT DESCRIPTION:	Retrospective full application for erection of one dwelling (not built in accordance with consent ref: 18/10970/FUL) (resubmission of PL/2024/02925)
RECOMMENDATION:	Refuse

PROPOSAL

The application is for a retrospective new dwelling at Little Orchard, Lower Kingsdown Road, Kingsdown. This unauthorised dwelling replaced a previous dwelling at the application site. Within previous years, a number of different designs for extensions to the former dwelling, and a replacement dwelling were granted consent. The current application considers a new dwelling, which is a similar design at ground and first floor level to the most recent permission for a replacement dwelling (ref: 18/10970/FUL). However, the unauthorised dwelling has been erected with an additional basement level and decking area, associated ground works, re-positioning of the dwelling and other minor alterations. It is understood that the unauthorised dwelling was practically completed and occupied from 13 April 2022. The raised decking has not been constructed.

Retrospective permission was previously sought for this unauthorised dwelling as a variation to condition of permission ref: 18/10970/FUL. However, it was determined by the Council's Enforcement Officer after a site visit that the permission was not implemented due to the construction method. The basement level had to be constructed prior to the rest of the dwelling. Consequently, it could not be considered that this permission was implemented, with an unauthorised extension – the whole dwelling is unauthorised in this case. As a consequence, this variation to condition application was withdrawn as it was invalid.

Following this, a full planning application was submitted in an attempt to regularise the unlawful dwelling under PL/2024/02925. This application was refused on grounds relating to the principle of development, green belt policy and amenity impacts.

The current application has been submitted as a further attempt to regularise the unauthorised dwelling. The proposed amendments include sealing off part of the basement floor area through the creation of a sealed void, and the depositing soil around this part of the basement level to partly conceal this. In addition, the extent of the decking area is reduced in size and opaque privacy screening is proposed to mitigate overlooking.

SITE DESCRIPTION

The application the plot of land which has historically been used as a residential property “Little Orchard”, located on Lower Kingsdown Road in Kingsdown. The previously dwelling in this location has been demolished and replaced with an unauthorised dwelling.

The proposed dwelling is four bedrooms and set over three levels. It has a relatively large residential curtilage which slopes down to the north, with wide views over the countryside. The property is situated within the Cotswold National Landscape (formerly AONB) and Green Belt. There is a public right of way some distance to the north west of the site (ref: BOX85).

PLANNING HISTORY

Proposal / Summary
N/03/01329/FUL - Full planning permission Decision - Approve with Conditions Date: 4/9/2003 – REAR EXTENSION WITH ROOMS IN THE ROOF AND THE ADDITION OF 2 DORMERS TO EXISTING DWELLING
N/04/00550/FUL - Full planning permission Decision - Approve with Conditions Date: 13/4/2004 – ERECTION OF FRONT DORMER WINDOW AND SINGLE STOREY REAR EXTENSION (REVISED)
16/05386/FUL - Full planning permission Decision - Approve with Conditions Date: 9/8/2016 – Two Storey Rear Extension
18/10970/FUL - Full planning permission Decision - Approve with Conditions Date: 13/2/2019 – Demolish and replace existing dwelling
18/02372/FUL - Full planning permission Decision - Approve with Conditions Date: 31/5/2018 – Remove side, rear extensions including front store and replace with new extensions, remove main house roof and rebuild with new design.
PL/2023/07905 - Removal/variation of conditions Decision - Withdrawn by Applicant Date: 22/2/2024 – Variation of condition 2 of 18/10970/FUL - To allow for amendments to the approved floor plans and elevations
PL/2024/02925 - Full planning permission Decision - Refuse Date: 7/8/2024 – Retrospective planning application for the retention of dwelling (built not in accordance with the approved plans on 18/10970/FUL)

RELEVANT POLICIES

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Wiltshire Core Strategy 2015 (WCS)

CP1 Settlement Strategy
CP2 Delivery Strategy
CP11 Corsham Spatial Strategy

CP50 Biodiversity and Geodiversity
CP51 Landscape
CP57 Ensuring High Quality Design and Place Shaping
CP61 Transport and New Development
CP64 Demand Management

North Wiltshire Local Plan 2011

Saved Policy H4

National Planning Policy Framework (NPPF)

ISSUES

The principal considerations in the determination of this application are the principle of development; green belt considerations; design and the impact of the proposed development on the character and appearance of the surrounding area (national landscape); the impact of the development on the residential amenities of neighbouring properties, ecology, access/parking and land stability.

CONSULTATION RESPONSES

Box Parish Council: Comment:

No comment. The drainage issue is deemed too complex for the Parish Council to fully understand.

Council Highway Engineer: No comment.

Council Drainage Engineer: No objection subject to conditions:

In December 2025, the applicant re-submitted a request for retrospective planning permission for the erected single dwelling at the site (not built in accordance with planning consent reference 18/10970/FUL). The original submission (PL/2024/02925) was refused for the following reasons:

1. The proposed development, by reason of its location would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011.

2. The proposed (retrospective) new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with the replacement building criteria of paragraph 154 d) of the National Planning Policy Framework. The proposed (retrospective) new dwelling is materially larger than the

one it has replaced, and is therefore, by definition inappropriate development which conflicts with the purpose of the Green Belt. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152, 153, & 154 of the National Planning Policy Framework (Dec 2023).

3. The proposed raised terrace/decking area causes an adverse impact to the amenity of adjoining neighbours in terms of privacy due to the overlooking and sense of overlooking from the terrace/decking area. There is a lack of screening to protect the privacy of neighbours. The proposal is contrary to Core Policy 57 vii of the Wiltshire Core Strategy (Jan 2015).

It is noted that the above do not directly relate to drainage / flood risk.

In planning terms, flood risk refers to the potential for development to increase the likelihood or severity of flooding on-site or elsewhere, while drainage considerations relate to the capacity of the site and surrounding infrastructure to manage surface water runoff in a sustainable and effective manner.

The local planning authority must be satisfied that the proposed development will not increase flood risk, either on-site or elsewhere, and that surface water will be managed in a sustainable and coordinated manner.

Where necessary, planning conditions or legal agreements may be used to secure the implementation, maintenance, and monitoring of SuDS and other drainage infrastructure.

Assessment

The application has been supported with a Site-Specific Flood Risk Assessment (FRA) and Drainage Strategy. It should be noted that our comments below are reliant on the accuracy and completeness of the FRA and we do not take any responsibility for incorrect data or interpretation made by the authors.

The provided drainage strategy outlines the proposed SuDS implementation at the site, detailing the installation of a soakaway chamber supported by modelling and BRE365 infiltration testing, and exceedance routing that resembles the previous behaviour at the site. However it is noted that the site has undergone substantial earth movements, such as the construction of the proposed basement. Such earth movements have the potential to alter the existing overland paths, ground infiltration capacity, and thus flood risk to people & property.

RECOMMENDATION

No objection subject to conditions

From the details provided by the applicant, additional information is required from the applicant to assess the impact of the development regarding to flood risk. It is requested that the applicant provides:

- 1. Exceedance routing following the completion of all earthworks and excavation that demonstrate how the pre-development scenario is replicated and does not increase flood risk to adjacent property.*
- 2. Confirmation that the performance of the final constructed cellular soakaway is consistent with the infiltration testing carried out on the 5th November 2025 by Paddock Geo Engineering (Appendix 3 of the provided FRA) following the completion of all earthworks and excavation.*

REPRESENTATIONS

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the application was publicised by way of neighbour notification letters sent to adjoining and nearby properties. These methods were used to inform interested parties and provide a period of 21 days for comments to be submitted.

Below is a summary of the three (3) representations received during the consultation period. Only material planning considerations have been taken into account in the assessment of this application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

- Impact on neighbour amenity – overlooking from the proposed balcony to Kestrels and other neighbours. Request that if the Council is minded to approve the application, privacy screening is provided.
- Soil surcharge and landslip potential. Infiltration testing not taken in a location that reflects the whole site.
- Site topography significantly changed and plans do not show the correct site topography.
- Previous consent 18/02372/FUL officer report stated the dwelling was at the limits of what would be acceptable and no further extensions could be permitted.
- The property is significantly larger than the original.
- The geotechnical reports supporting the application do not require a basement level of living accommodation.
- Drawings that pre-date the application show the basement level of living accommodation
- The sealed void does not prevent the room from being use as a habitable accommodation.
- The proposed groundworks are not reinstatement of soil, nor do they reinstate soil to former levels, they are additional ground works. – *Officer comment: this is acknowledged given the land has been excavated significantly to accommodate the additional basement level.*

ASSESSMENT

Principle of development

The application is for a retrospective new residential dwelling within the open countryside. The application site is a plot of land which had a residential dwelling “Little Orchard” in situ until this was recently demolished and a new unauthorised residential dwelling was erected in its place. The application site had planning permission for a replacement dwelling which the applicants initially claimed was implemented and attempted to vary the plans with a S73 application. However, following enforcement investigation considering the method of construction, it was concluded that this permission had not been implemented and the erected building is a wholly unauthorised dwelling. Given the previous residential dwelling has been demolished, the current application is not a replacement dwelling application, rather an application for a new open market dwelling.

Development plan policies guide development to sustainable locations. CP1 “Settlement Strategy” of the Wiltshire Core Strategy sets out where sustainable development will take place across the plan period. CP2 “Delivery Strategy” of the Wiltshire Core Strategy states that other than circumstances as permitted by other policies within the plan, development will not be permitted outside the limits of development. CP11 “Spatial Strategy: Corsham Community Area” sets out the hierarchy of settlements within the area to which some development is anticipated. The application site is situated outside of any development framework boundary, within the open countryside. This is a location where development is strictly controlled unless other policies within the development plan provide justification or material considerations apply.

The application could arguably be considered as an independent new dwelling within the countryside rather than a replacement dwelling given the previous dwelling has already been demolished. However, having regard to the planning history of the site, and the fact that the application site has had an almost continual use as a residential dwelling aside from the period between the demolition of the former dwelling and erection of the unauthorised dwelling; it is considered reasonable to consider the application against Saved Policy H4 in this case

Saved policy H4 from the North Wiltshire Local Plan 2011 allows for new dwellings in the countryside provided that:

- i) *It is in connection with the essential needs of agriculture or forestry or other rural based enterprise;*
- ii) *It is a replacement for an existing dwelling where:*
 - a. *The residential use has not been abandoned; and*
 - b. *the existing dwelling is incapable of retention in its current state, is unsightly or is out of character with its surroundings and*
 - c. *the replacement dwelling is of a similar size and scale to the existing dwelling within the same curtilage*

The application dwelling is not related to agriculture or forestry, or other rural based business. The proposal may be considered as a replacement dwelling, which is subject to compliance with the criterion set out above.

In respect of a), the residential use of the former dwelling had not been abandoned. With regard to b), the previous application for a replacement dwelling was accompanied by a building appraisal which concluded the former building was not structurally sound. The existing dwelling was not considered to be adversely unsightly or out of character with its surroundings, however, only one part of criterion b) needed to be complied with to meet the tests of this criterion.

With regard to c), the previous proposal identified the replacement building would be greater in massing, but the extant permissions at the site were considered to be a material consideration in terms of the size and scale of built form considered acceptable at that time. The current proposal comprises a much larger replacement dwelling which is not a similar size or scale to the former dwelling. Whilst the remaining parts of the policy are complied with, the application fails criterion c) and as a result is unacceptable in principle.

The current application differs from the previous application (PL/2024/02925) in that the applicant proposes to seal off part of the basement level and infill soil around some of the basement. However, these changes do not materially reduce the overall size or scale of the building. Consequently, the proposal remains unacceptable in principle for the reasons previously identified.

There are no other policies that support a replacement dwelling within this location in the countryside, outside of any framework boundary, and as a consequence the application is unacceptable in principle.

Impact on the Green Belt

The application site is situated within the Bath and West Wiltshire Green Belt. There is no relevant local development plan policy on Green Belt, and consequently the NPPF is the only policy consideration on this matter. Paragraph 142 of the NPPF sets out that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Green Belt policy is highly restrictive of new development.

Inappropriate Development

The application is for the erection of a new building within the Green Belt. Whilst consent was originally given for a replacement dwelling on site, it has been established that the dwelling constructed bears such significant differences from that previously approved that it cannot reasonably be regarded as a replacement dwelling. Instead, the development must be assessed as a new building within the Green Belt.

The starting point, therefore, is that the proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. No such circumstances have been demonstrated in this case.

Exceptions set out in paragraph 154 of the NPPF

Notwithstanding the Council's position that the proposal represents a new building in the Bath and West Wiltshire Green Belt and therefore an inappropriate form of development, for completeness it is considered appropriate to consider the proposal against the exceptions set out in paragraph 154 to the NPPF.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Most new buildings would be considered to be inappropriate development within the Green Belt, however some exceptions are set out in Paragraph 154 of the NPPF.

The proposal is such that it is not relevant to consider it against exceptions (a), (b) or (c).

Exception (d), however, refers to the replacement of buildings and as has been referenced in earlier sections, there has been an existing building on the site in the past, prior to its demolition. For completeness, therefore, the proposal is assessed against 154(d) below. It states:

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

There is no statutory definition or government guidance which sets out what constitutes a 'materially larger' dwelling. An assessment should primarily compare the size (floor area, volume and height) of the proposed dwelling with that of the existing one. Relevant caselaw (Feather v Cheshire East Borough Council 2010) describes that "The expression 'materially' invites a consideration of size in context". The context is said to include the policies which apply to establishing the green belt as well as the distribution of dimensions

There is no specified volumetric increases within the policy and each application is judged on its own merits and site circumstances. So as to perhaps give context to the size of the building, the application site has planning history of a permission in 2003 for an extension (N/03/01329/FUL) which allowed a 54% increase in volume to the original building (main extension not constructed), and this was followed by a permission for a two-storey rear extension (16/05386/FUL) which represented an approximately 47% increase. The permission for alternative extensions was a similar size (18/02372/FUL). The 2003 permission was understood to have been implemented at the time of the consideration of the replacement dwelling application (18/10970/FUL), and the 2016 and 2018 permissions for extensions were extant at this time. The proposed extensions were within the same location and so only one or other could be implemented, but both clearly represented a large increase compared to the "original building".

An application was subsequently made for a replacement dwelling under application reference 18/10970/FUL as an alternative to extending the property. That application proposed a replacement building which was materially larger than the one it would replace (thereby conflicting with paragraph 154(d) to the NPPF). However, the size increase of the previously consented replacement dwelling resulted in a similar volume increases to the previous permissions for extensions. It is understood that application reference N/03/01392/FUL had been implemented, and the more recent permissions 16/05386/FUL and 18/02372/FUL were still extant at the time of determination of the replacement dwelling application

(18/10970/FUL). These permissions were therefore regarded as a legitimate “fall back” at that time and regarded as a material consideration in favour of the proposal. It was concluded the replacement dwelling would be acceptable as an alternative option. The proposals were considered to have been sensitively designed and were not considered to harm the openness of the green belt.

Notably, the delegated report in determining 18/10970/FUL concluded that “the development at this property is strictly at the limit of what would be acceptable and no further development could be permitted at this property.” Removal of permitted development rights conditions were applied to prevent further extensions/additions and outbuildings/garages.

The current situation on the ground is that the previous dwelling at the site has been demolished and an unauthorised dwelling has been erected.

In basic terms, the new building is three storey compared to the two storeys of the original dwelling and the 2018 permission, with that additional floor of accommodation representing a significant quantum of additional built form. Having compared the original building on the site which was demolished, it is clear that the building constructed on site (for which retrospective planning permission is now sought), it is clear that by every measure, the proposal would unambiguously represent a materially larger increase over the demolished building and would be contrary to paragraph 154(d) to the NPPF. The proposed dwelling north west elevation at the rear is approx. 9.8m in height from the basement floor to ridge, and in excess of 15m in width. In comparison, according to the existing elevations submitted under 18/10970/FUL, the same elevation of the previous dwelling measured approx. 5.5m in height from ground floor to ridge, and measured approximately 17.7m in width. This provides a sense of the increased size. Compared with the most recent application, the revised proposal seeks to lessen the visual prominence of part of the basement level by depositing soil around a section of the basement and creating a sealed internal void. However, this space remains part of the building and does not reduce the overall size or volume of the development. Consequently, the building is considered to be inappropriate development in the Green Belt and would conflict with the expressed purposes of the Green Belt.

Following the refusal of the 2024 application, the applicant has sought to reduce the impact of the basement through the creation of a sealed void within part of the basement; and the regrading of surrounding land levels around some of the basement. Whilst the Council’s position is that the proposal is a new building in the Green Belt, regardless of the changes to the basement area, for completeness, this section nonetheless considers the effect of these changes in the context of Green Belt policy.

Case law (Feather v Cheshire East BC [2010]) confirms that basement floorspace and volume must be taken into account when assessing whether a building is materially larger. The creation of sealed or unused void space does not remove that part of the structure from the overall assessment of built form.

The Local Planning Authority has carefully considered these amendments. However, the creation of sealed void space does not remove the presence of built form or reduce the overall structural envelope of the building. The basement structure, retaining walls and usable space

would be retained and could be re-opened at a later date. The footprint and extent of the development are therefore largely unchanged.

Whilst the proposed void space may reduce the amount of usable internal floorspace, it does not materially reduce the scale of the development for the purposes of Green Belt policy. The building remains substantially larger than the one it replaces.

The regrading of soil to conceal part of the basement level means its less visually prominent, but does not lessen the quantum of built form.

As is required by paragraph 154(d) to the NPPF, the assessment of the proposal requires a comparison with the original building on the site which has been demolished. Whilst a comparison with the 2018 permission cannot be given any weight since it is established that that permission was not implemented and is therefore not extant, nevertheless, given the scale of the as built dwelling with a whole additional floor being added, even a cursory comparative exercise reveals that the proposals are for a dwelling which is materially larger. As a comparison, the proposed 2018 replacement dwelling's north west elevation measured approx. 7.1m in height, and 14.7m in width. Accordingly, even if the 2018 permission were to somehow be given weight, the increase in size in scale is so great that it would still fail the requirements of paragraph 154(d) to the NPPF and represent inappropriate development in the Green Belt. The revised proposal does not alter the conclusions reached under permission PL/2024/02925, as the proposed amendments do not result in any reduction in the overall scale or volume of the building.

The proposal does not comply with paragraph 154(d) of the NPPF, as it results in a materially larger building than the one it replaces. It therefore constitutes inappropriate development in the Green Belt. Substantial weight must be given to this harm.

Paragraph 154(e) of the NPPF states an exception for:

e) limited infilling in villages

As the application site is not located within a village, the proposal cannot reasonably be considered infill development and this exception is therefore not applicable.

With their submission, the applicant argues that the application site is previously developed land. In this regard, paragraph 154(g) to the NPPF provides for the following exception:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

When the former dwelling was in situ the area in which the dwelling was situated may have been considered previously developed land. However, since this has been demolished and replaced with an unauthorised structure, it is not considered that this exception is relevant in this case. In any event, even if the previous dwelling were considered as a starting point, the replacement dwelling would certainly have a much greater impact on the openness of the Green Belt than the previous development given the significant volumetric increase. Such an increase unambiguously rises to substantial harm, thereby constituting conflict with 154(g), second bullet point. Consequently, this exception does not provide any justification for the proposals.

Grey belt

The applicant has also sought to rely on the provisions of paragraph 155 of the National Planning Policy Framework, which introduces a potential exception for development on 'grey belt' land, where specified criteria are met.

For development to be considered not inappropriate under this provision, all of the following criteria must be satisfied:

- The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt;
- There is a demonstrable unmet need for the type of development proposed; and
- The development would be in a sustainable location.

Whilst the application site may be considered previously developed land, the proposal must meet all of the above criteria for the development not to be regarded as inappropriate. In this case, the site lies outside any defined settlement boundary and is not considered to represent a sustainable location for new residential development, having regard to the spatial strategy set out in Core Policies 1, 2 and 11 of the Wiltshire Core Strategy.

Furthermore, the proposal does not represent development of a scale or type necessary to meet an identified unmet housing need, but rather relates to a single private dwelling.

As such, the proposal fails to satisfy the requirements of paragraph 155 of the NPPF. The development cannot therefore be regarded as appropriate development within the Green Belt under this provision.

Openness

The unauthorised dwelling is inappropriate development and as a consequence harmful to the openness of the Green Belt.

To accommodate the unauthorised dwelling, the site has been reprofiled which constitutes engineering operations. Paragraph 155 of the NPPF states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. It is not considered that the groundworks in isolation would harm the openness of the Green Belt given these are relatively minor.

Very Special Circumstances

Paragraph 153 of the NPPF states that Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has stated a case for very special circumstances relating to the medical needs of a resident. Supporting evidence was previously submitted as part of a pre-application submission. Whilst this evidence was not submitted as part of this formal application it is considered relevant (it being referenced within the supporting information) and is taken account of. Such information is confidential and therefore not reproduced in this report, but confirms a need for accessible accommodation, the provision of a lift, and space associated with a live-in carer for ongoing medical care and emergency support.

The Local Planning Authority affords significant weight to this evidence. It is accepted that the need to provide accessible and adapted accommodation is a material consideration and are theoretically capable of constituting very special circumstances. However, very special circumstances must not only justify the principle of development, but also the extent of the development proposed and is deliberately worded in the NPPF as being a very high bar to clear.

In this case, whilst the provision of accessible accommodation is accepted in principle, the Local Planning Authority is not satisfied that the scale of the basement level as constructed is proportionate to those needs. In particular, only part of the basement is directly related to medical and accessibility requirements. A substantial proportion of the basement comprises additional residential accommodation not clearly linked to those needs.

Supporting information states that the basement has provision for a lift, a large wheelchair-accessible hallway, a disabled ensuite, and a separate room and bathroom for a carer. However, the floor plan shows a bedroom, en-suite, large hallway with a large circulation space around the stairs, plant room and cloak room. There are no details about the use of the rooms, required space or storage associated with the medical need. Consequently, the extent of basement accommodation has not been demonstrated as reasonably necessary to meet the identified medical requirements. It is noted that the previous 2024 application included part of the basement to be used for a cinema which was a space clearly not linked to a medical need. There remains a lack of detail and justification in terms of the scope of space required.

Whilst significant weight is afforded to the medical needs of the occupant, these considerations do constitute the very special circumstances which would outweigh the definitional harm arising from inappropriate development; and harm to the openness of the Green Belt. There is a lack of justification and detail in this regard and very special circumstances have therefore not been demonstrated.

Conclusion

The proposal constitutes inappropriate development within the Green Belt and is therefore, by definition, harmful. In addition to this definitional harm, the development results in harm to the openness of the Green Belt. The proposal does not fall within any of the exceptions set out in paragraphs 154 or 155 of the NPPF.

Whilst the medical needs of the occupant are acknowledged and carry significant weight, insufficient evidence has been provided to demonstrate the extent to which the basement accommodation is reasonably required to meet those needs. In particular, the quantum of floorspace has not been adequately justified, and the scale of the basement level is not considered to be proportionate.

The justification provided by the applicant is not considered to meet the very high bar of very special circumstances and would not outweigh the identified harm caused by inappropriate development in the Green Belt. Such harm to the Green Belt should rightly be given substantial weight when considering the proposals.

Design and Impact on the character and appearance of the area

Core Policy 57 looks to ensure that a high standard of design is required in all new developments and that proposals should take into account the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and the wider character of the area. The property is situated within the Cotswold National Landscape (formerly Cotswold AONB), which Policy CP51 of the Wiltshire Core Strategy applies great weight to conserving and enhancing landscapes and scenic beauty.

The former dwelling on site comprised a bungalow which was predominantly finished in render, set beneath a tiled roof. The previously consented replacement dwelling (18/10970/FUL) which had a similar appearance at ground and first floor, comprised a modestly higher roof, which would be finished in natural Cotswold stone, set beneath a natural slate roof, with cream wood foil pvc windows and composite doors. It is understood the proposal would not have required significant groundworks.

The previously permitted replacement dwelling would have resulted in a two-storey building which was traditional in appearance with the use of natural Cotswold stone. There is varying design within the area with properties situated at different levels and not one uniform design/materials palette. The proposal was considered to be an improved design of the existing bungalow, and was not considered to compromise the character or appearance of the AONB (now Cotswold National Landscape). Permitted development rights were removed for further outbuildings/extensions would be removed in the interests of safeguarding the character and appearance of the area.

The current application for the unauthorised dwelling has replicated the design of the replacement dwelling consent at ground and first floor levels (ref: 18/10970/FUL) but has undertaken significant cut and fill on the site, and constructed a new basement level. The appearance from the front of the building remains largely the same (minor changes), however when viewed at the rear this is now a three storey dwelling compared to the previously consented two storey dwelling.

The current application proposes a regrading of the land around part of the basement to conceal some of the building at this level. The design of the building from the rear appears bulky and the proportions with fenestration design appears imbalanced. The use of natural stone materials is supported in this location. Whilst there are some reservations in respect of the design, it is not considered that it is so poor that the proposal should be refused on this ground.

The visual impact of this building as a three-storey dwelling has a more prominent visual impact and may be more prominent within the wider Cotswold National Landscape. There is little assessment of the impact on the Cotswold National Landscape in the application submission. The proposed materials of natural stone and slate materials remains appropriate in principle, and these are materials recommended to be used within the National Landscape. The additional built form above that previously approved comprises an additional floor at basement level. The elevated position means this dwelling is visible within the wider landscape and it is the rear elevation which has the most potential to cause an impact. However, the natural stone materials used are high quality and will weather over time to become less vibrant. The dwelling sits in place of a previous residential dwelling, and seen within the context of a row of dwellings, where it is bordered on both sides by residential dwellings. The character of the site remains similar, aside from a bulkier dwelling. The regrading of land to conceal part of the basement will reduce the visual impact in part. There are no additional boundary treatments proposed that would be harmful to the wider landscape. Whilst it may be more visually prominent on the rear elevation, in landscape terms it is not considered the proposal would cause harm to the Cotswold National Landscape given the site context and appropriate materials. The cut and fill on the site is not considered to be significant enough that would cause harm to the landscape.

In terms of impact on light spill, there would be two sets of additional doors at basement level compared to the previously approved replacement dwelling. The proposal sits on a site that previously had a dwelling. Whilst there is increased glazing, it is not considered that the cumulative level of glazing is so great that it would have a harmful effect on the Cotswold National Landscape.

Impact on amenity of neighbours

The permitted replacement dwelling application (ref: 18/10970/FUL) was considered acceptable in amenity terms. However, the current proposal differs from the approved scheme in several respects, including the repositioning of the dwelling further to the rear of the plot, groundworks, the introduction of a basement level, and the addition of raised balcony/terrace areas.

There are neighbouring properties to either side of the dwelling and a number of objections have been received in respect to impact on privacy and overlooking, particularly in relation to the balcony/terrace. At the time of the last site visit, the unauthorised dwelling has been substantively erected but the elevated balcony/terrace has not.

During the course of the application the balcony/terrace area has been reduced in scale and is now split into two smaller separate areas. Opaque privacy glass panels are proposed to the sides of these terrace areas in order to mitigate overlooking.

Considering firstly the impact on Kestrels (formerly Lawton), the dwelling is situated next door to the north. There is some distance between the two buildings and there is intervening foliage. There are no windows at first floor in the side elevation. This neighbour has raised concern in respect of the balcony/terrace. The neighbour has stated that they have no objection in principle to the application provided that effective and permanent measures are secured to prevent overlooking from the proposed balcony into their bedroom and private garden. The most recent application PL/2024/02925 did not include any screening to the balcony. The proposals as revised has added privacy glass panels which would help mitigate overlooking or perceived overlooking towards Kestrels and their private garden. Such screening can be conditioned to ensure that it is maintained in perpetuity.

In considering Borderlands to the south, this property is closer to the application dwelling and there is currently no intervening foliage so this has a more sensitive relationship.

The original proposal included a large raised terrace which would have resulted in a significant degree of overlooking towards the private garden of Borderlands. The revised proposal reduces the scale of the terrace and introduces opaque side screening, which materially lessens both direct overlooking and the perception of overlooking.

Whilst the concerns of the neighbour are understood, in this instance the revised terrace proposals, and the introducing the proposed screening (which could be the subject of a condition prohibiting the creation of the terrace unless it is accompanied by such privacy screens), are considered sufficient to mitigate unacceptable overlooking into the neighbouring property. The application dwelling has no windows on the south east elevation.

It is not considered that there would be any harm in terms of loss of daylight or sunlight as a result of the proposed works, due to the positioning of the application dwelling and neighbouring properties, and comparative heights of buildings. On the previous application the residents of Borderlands raised concern in respect of loss of light due to planting of trees. The planting of trees would not require planning permission. However, it is unlikely trees would be of a size that causes a harmful impact on light and amenity.

Accordingly, it is considered that, subject to the imposition of a condition requiring the installation of the privacy screens, the proposed development would not cause an unacceptable impact upon the amenity and living conditions of the neighbouring occupiers and would comply with policy CP57 of the Wiltshire Core Strategy.

Highways and parking

There are no proposed changes to the existing access arrangement. The proposals would comply with the Wiltshire Council parking standards. No concerns in relation to highway safety of parking provision has been raised. The Council's Highways Engineer has no comment on the proposals.

Concerns were previously raised on the 2024 application by neighbours in terms of whether the parking dimensions meet the Wiltshire standards. The comments raised are valid in that the plan may not show 3 dedicated spaces that measure 2.4 m by 4.8 m and garage space may be less than that quoted from Wiltshire's LTP. However, the historic parking pre-dates the publication of the LTP. Consequently, it would be difficult to object to and subsequently defend at appeal. In this case, the Highway Engineer confirmed that they were comfortable that the parking of cars can be achieved free of the public highway, and that the existing highway network will not be over-burdened by the possibility of a third car being parked at the proposal site. The proposal is considered to be acceptable in terms of CP61 and CP64 of the WCS.

Ecology and biodiversity

There was no objection from the Council Ecologist subject to informatives on application reference 18/02372/FUL. The previous Ecology Survey and Assessment concluded that the previous building was not being used by bats. This was the only concern previously raised and an informative was added that works should not take place that will harm nesting birds, and biodiversity enhancements were welcomed. The application was submitted prior to April 2024 before Biodiversity Net Gain requirements were introduced so this is not required as part of this application. There are no ecological concerns in respect of the application in accordance with CP50 of the WCS.

Land stability

Paragraph 196 of the NPPF states that planning decisions should contribute to and enhance the natural environment by a number of means, including preventing new and existing development from contributing to, being put at risk from, or being adversely affected by, unacceptable levels of land instability.

Concerns have been raised by neighbouring occupiers regarding the potential for land instability as a result of the excavation works associated with the basement level and the deposition of soil within the site. In particular, objections refer to the potential for increased loading, changes to ground conditions, and risks associated with the underlying geology.

The development involves a greater degree of excavation than the previously approved replacement dwelling, and it is acknowledged that this has altered the ground profile of the site. The application is supported by a Preliminary Geotechnical Slope Stability Assessment, which considers the characteristics of the site and identifies potential foundation solutions – with and without a basement level. This assessment acknowledges that the site is underlain by landslipped Fullers' Earth strata and confirms that the area is sensitive to ground movement. The report identifies that factors of safety may be close to critical levels in certain scenarios and that engineering interventions, such as piled foundations and retaining structures, would be required to ensure stability.

Whilst the concerns of the objectors are understood, but the submitted report appears to have been prepared by an appropriate professional and concludes that the development can be constructed safely through the use of appropriate engineering solutions. Accordingly there is nothing beyond the anecdotal that suggests a different conclusion should be reached.

Regardless, paragraph 197 to the NPPF confirms that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The Party Wall Act may also be referred to in respect of works along boundaries between properties.

Flood risk and drainage

Paragraphs 170–182 of the National Planning Policy Framework (NPPF) and Core Policy 67 of the Wiltshire Core Strategy require that development avoids increasing flood risk and ensures surface water is managed in a sustainable manner.

The application is supported by a Site-Specific Flood Risk Assessment (FRA) and Drainage Strategy. The site is located within Flood Zone 1, and the FRA confirms that the risk of flooding from all sources is low.

Surface water drainage is proposed via a sustainable drainage system (SuDS) utilising an on-site soakaway. Infiltration testing has been undertaken in accordance with BRE365 methodology at two locations within the site, which demonstrates that the underlying soils are capable of accommodating infiltration. The testing results indicate that soakaways are feasible within the site.

The proposed drainage strategy incorporates a soakaway system designed to accommodate a 1 in 100 year storm event plus an allowance for climate change, with no discharge of surface water off site.

It is acknowledged that the site has undergone earthworks associated with the construction of the dwelling, which have the potential to influence local drainage characteristics. Public representations have raised concerns regarding the accuracy of existing ground levels and the location of infiltration testing.

Concerns have also been raised regarding the accuracy of submitted plans in representing existing ground levels. Whilst this is noted, the Local Planning Authority is satisfied that there is sufficient information available to assess the application, and the matters raised do not alter the overall planning conclusions reached.

The Lead Local Flood Authority (LLFA) has reviewed the submitted information and raises no objection to the proposal, subject to conditions. The LLFA has requested further detail in respect of exceedance flow routing following completion of works, and confirmation that the performance of the installed soakaway is consistent with the infiltration testing undertaken.

These matters relate to the performance and verification of the drainage system and can be appropriately addressed through planning conditions. Subject to the imposition of conditions to secure these details and ensure appropriate implementation, it is considered that the development would not result in an increased risk of flooding on-site or elsewhere.

5 Year Housing Land Supply (HLS)

The Wiltshire Housing Land Supply Statement (June 2025) provides the latest position on the Council's ability to demonstrate a five-year supply of deliverable housing land, which is a material consideration in the determination of planning applications.

The National Planning Policy Framework was revised in December 2024. This has reintroduced the requirement to meet five years' worth of deliverable sites and a buffer to be applied to the five-year housing requirement in all circumstances, and has revised the Local Housing Need calculation to establish the five-year housing requirement. These factors have resulted in a substantial increase in the five-year housing requirement to be met from the previous calculation. When this is assessed against the housing land supply which can be delivered within five years, the recalculation shows a significant reduction in the number of years supply. The resulting position shows that the Council can currently demonstrate a 2.42 years housing land supply of housing at a unitary authority level. This is considered to be a substantial shortfall.

The absence of a five-year housing land supply is a material consideration in the determination of this application. However, as the site lies within the Green Belt, where policies specified in Footnote 7 of the NPPF apply, the presumption in favour of sustainable development under paragraph 11(d) is not engaged. Consequently, the housing land supply shortfall attracts limited weight in the assessment of this proposal, which is instead determined principally against Green Belt policy and other relevant development plan considerations.

PLANNING BALANCE AND CONCLUSION

Benefits of the proposal

The proposal would result in the delivery of a single market dwelling. In the context of the current housing land supply shortfall, the contribution is very limited and therefore this attracts limited weight in favour of the development.

The proposal would have given rise to some limited economic benefits during the construction phase (the application is predominantly retrospective). These are afforded limited weight.

The site is previously developed land and has a lawful residential use. The redevelopment of such land attracts limited weight in favour of the proposal.

It is also acknowledged that the development seeks to accommodate the specific medical needs of an occupant, including accessible accommodation and provision for care. This is afforded significant weight as a material consideration.

Neutral impacts

The proposal is considered acceptable in respect of highway safety, drainage and flood risk (subject to conditions), ecology, and land stability. These matters are afforded neutral weight in the planning balance.

Identified harms

The proposal constitutes inappropriate development within the Green Belt and is, by definition, harmful. Substantial weight must be given to this harm.

The development results in additional harm to the openness of the Green Belt through the increased scale, massing and extent of built form, including the basement level and associated engineering operations. This also attracts substantial weight.

The proposal fails to comply with the criteria for replacement dwellings within Saved Policy H4, by virtue of being materially larger than the dwelling it replaces. This conflict with the development plan attracts significant weight.

Whilst the Council's spatial strategy policies are out-of-date in the context of housing land supply, they remain important in directing development to sustainable locations. The proposal represents development outside of defined settlement boundaries and therefore conflicts with the spatial strategy. However it is acknowledged that the site was previously occupied by a dwelling and the proposal relates to a replacement of an existing dwelling. As such, this degree of conflict attracts limited weight.

None of the exceptions set out in paragraphs 154 or 155 of the NPPF are applicable to the proposal. Whilst it is acknowledged that the applicant has engaged with the Local Planning Authority and sought to amend the scheme, including changes to the basement and external areas, these amendments do not materially reduce the scale of the development or bring it within policy compliance.

Furthermore, whilst the medical needs of the occupant are accepted and carry significant weight, insufficient evidence has been provided to demonstrate how the extent and configuration of the basement accommodation is directly and proportionately related to those needs. As such, the quantum of development remains unjustified in Green Belt terms.

Overall Conclusion

The Council is currently unable to demonstrate a five-year housing land supply. However, the proposal conflicts with Green Belt policy, which is a policy that protects areas of particular importance. In this instance, the impacts to the Green belt are considered to constitute a strong reason for refusing the development, and the so called *tilted balance* is not engaged.

Substantial weight is afforded to the harm to the Green Belt arising from inappropriate development and the associated harm to openness in accordance with paragraph 153 of the NPPF.

Whilst significant weight is afforded to the medical needs of the occupant and there are other benefits of limited weight, these considerations do not constitute very special circumstances which would outweigh the identified harm to the Green Belt.

The proposal also conflicts with Saved Policy H4 and the spatial strategy for development in the countryside.

Accordingly, the proposal is considered to conflict with the development plan, and there are no material considerations that indicate a decision other than refusal.

RECOMMENDATION: That Planning Permission be REFUSED.

1. The proposed development, by reason of its location would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011
2. The proposed new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with any of the exceptions within paragraph 154 to the National Planning Policy Framework. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152, 153, and 154 of the National Planning Policy Framework.